TAHOE REGIONAL PLANNING AGENCY
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, October 27, 1982, at
9:30 a.m. at the hearing room of the Tahoe Regional Planning Agency, located
at 2155 South Avenue, South Lake Tahoe, California, the Governing Body of
said agency will conduct its regular meeting. The agenda for said meeting is
attached to and made a part of this notice.

NOTICE IS FURTHER GIVEN that the Finance Committee of said agency
will meet at the same location at 8:30 a.m. on Thursday, October 28, 1982, to
discuss the Agency's budget and work program.

Date: October 8, 1982

By: Philip A. Overeynder
    Executive Director
    Tahoe Regional Planning Agency

NOTE
Items on the agenda without a time designation may not
necessarily be considered in the order in which they appear
on the agenda.

- BUDGET/WORK PROGRAM
- VISUAL IMPACT STUDY
- B&C CONTRACT
- COLA
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

TRPA Office, 2155 South Avenue
South Lake Tahoe, California

October 27, 1982 9:30 a.m.
October 28, 1982 9:30 a.m.

NOTE: There will be a meeting of the Finance Committee at 8:30 a.m. on Thursday, October 28, 1982 to discuss the Agency's budget and work program.

PRELIMINARY AGENDA

I CALL TO ORDER AND DETERMINATION OF QUORUM

II APPROVAL OF AGENDA

III DISPOSITION OF MINUTES

IV CONSENT CALENDAR

V SPECIAL REPORT - Federal Agency/TRPA Coordination Effort

VI AGENCY REVIEW

A. Agency Review and Certification of Finding of No Significant Effect

1. Wayne Prim, Final Approval of Parcel Map and Administrative Permit to Construct a Road, Eagle Drive, Incline Village, Washoe County, APN 126-251-30, -31 and -32, TRPA File #81-1246

2. Rocky Point Subdivision/Ferrari, Classification as Man-Modified Area and Local Road Finding, Tunnel Creek Road Improvements, Washoe County, TRPA File #82202

3. McFarland Professional Building, 800 Southwood Boulevard, Washoe County, APN 122-222-43, -44, -45, and -46, TRPA File #82736

4. Yountchi/Lundahl, Retail Commercial and Office Building, 288 Village Boulevard, Washoe County, APN 122-282-25, TRPA File #81-1208

B. W. Belleville, Single Family Dwelling With 1980 Permit Status and Local Public Road Finding, Level 1A, Hubbard Road, Douglas County, APN 08-332-02, TRPA File #82330

VII SPECIAL DETERMINATIONS

A. Interpretation of Section 9.13 Regarding Permitted Uses in the General Forest Land Use District, Nevada Side Land Use Ordinance

B. Gary Sheerin, Rocky Point Subdivision, Block C, Lots 1-4, Washoe County, APN 055-345-01, TRPA File #81-1148, Status Under Section 9.13, Nevada Side Land Use Ordinance

C. William Taylor, Rocky Point Subdivision, Block C, Lots 6 and 7, Washoe County, APN 055-345-03 and -04, TRPA File #82530, Status Under Section 9.13, Nevada Side Land Use Ordinance
E. G. Towle/J. Rogan, Finding of Vested Right, Fourplex, Tahoe Village Unit 1, Douglas County, APN 09-032-22 through 09-032-25, TRPA File #82-1320

VIII APPEALS

Buchbinder/Elegant, Appeal of Staff Decision Pursuant to Lot Review Criteria, Case-by-Case Review of Single Family Dwelling, Level 1A, Washoe County, APN 125-232-06, TRPA File #81-1392

IX ENFORCEMENT

A. Show Cause Hearings

1. D'Allesandro/List, Violation of Condition of Approval, Washoe County, APN 125-511-23, TRPA File #81890

2. Craig Ewald, Unauthorized Tree Cutting, 642 Inspiration Drive, Zephyr Heights, Douglas County

3. South Shore Marina, Noncompliance With Conditions of Approval, City of South Lake Tahoe

4. Tom Pitts, Unauthorized Pier Construction, 8381 Kehlet Drive, El Dorado County, APN 16-081-431, TRPA File #81149

5. Kern Schumacher, Grading Violation, Single Family Dwelling, 1047 Lakeshore Boulevard, Incline Village, Washoe County, APN 122-320-13 and -14, TRPA File #81604

B. Reports

X PUBLIC HEARINGS

A. To Consider Amendments to Ordinance 81-5 Extending the Case-by-Case Review Procedure to August 28, 1983 (continued hearing)

B. To Consider Amendments to Ordinance 81-8 Extending the Provisions Limiting Issuance of Building Permits

C. To Consider Amendments to Ordinance 4 (Land Use Ordinance) to Allow Condominium Conversions on Properties Containing Nonconforming Density and Land Coverage, to Review the Nonconforming Replacement Restrictions Pertaining Thereto and to Consider Other Related Matters

D. To Consider Amendments to the 1981 Case-by-Case Lot Review Criteria Pertaining to Land Stability

XI SETTLEMENT OF LITIGATION AND RELATED MATTERS

A. Dillingham Development Company, City of South Lake Tahoe

B. Bitterbrush Subdivision, Washoe County
PLANNING MATTERS

Regional Plan Issues and Strategies

B. Nevada Department of Transportation, Preliminary Erosion Control Study, Highway 50, Stateline to Spooner Summit

REPORTS

A. Finance Committee Report
   1. Cost of Living Salary Adjustments
   2. Other

B. Executive Session

C. Regional Plan Steering Committee Report

D. Executive Director Report
   1. Lahontan Water Quality Control Board, Existing Parking Lot Erosion and Drainage Control Program
   2. Interpretation of Shorezone Ordinance Regarding Repairs to Nonconforming Structures in the Shorezone
   3. List of Projects Approved at Staff Level
   4. Other

E. Legal Counsel Report

F. Governing Body Members

G. Public Interest Comments

ADMINISTRATIVE MATTERS

A. Status of Visual Quality Index Study

B. Other

ORDINANCES - First Readings

A. Amendments to Ordinance 81-5 to Extend the Case-by-Case Review Procedure to August 28, 1983

B. Amendments to Ordinance 81-8 to Extend Provisions Limiting Issuance of Building Permits

C. Amendments to Ordinance 4 to Allow Condominium Conversions on Properties Containing Nonconforming Density and Coverage, to Revise the Nonconforming Replacement Restrictions Pertaining Thereto and to Consider Other Related Matters

RESOLUTIONS

Amending 1981 Case-by-Case Lot Review Criteria Pertaining to Land Stability
XVII PENDING MATTERS

XVIII ADJOURNMENT

CONSENT CALENDAR

Approval of the following items requires a finding of no significant effect and approval with conditions and necessary findings:

1. Hunter/Barrow, 2 Unit Condominium Parcel Map, Washoe County, APN 124-162-25, TRPA File #82-1200

2. King/Barrow, 2 Unit Condominium Parcel Map, Washoe County, APN 124-163-11, TRPA File #82-1206

3. Barton Memorial Nevada Medical Clinic, Kingsbury Grade, Douglas County, APN 32-105-06, TRPA File #82-1302

4. Camp Richardson Marina Repairs, El Dorado County, APN 32-110-01, TRPA File #82285

Approval of the following dwellings with 1980 building permit status requires special findings and conditions:

5. H. Martin, Level 1A, Hubbard Road, Douglas County, APN 07-332-05, TRPA File #81832

6. K. Buckingham, Level 1A, Zephyr Heights, Douglas County, APN 05-160-16, TRPA File #82-1290

Four of the members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedures shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.
# TAHOE REGIONAL PLANNING AGENCY

## STATEMENT OF ASSETS AND LIABILITIES

(September 30, 1982)

### ASSETS

#### GENERAL FUND

<table>
<thead>
<tr>
<th>Asset</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Petty Cash</td>
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<td>Savings Account</td>
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<td>Dean Witter Account</td>
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<td>Workman's Comp Deposit</td>
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<td>U.S. Dept. of Agric. Grant Receiv.</td>
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<td>C.T.R.P.A. Grant Receivable</td>
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<td>E.P.A. Grant Receivable</td>
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<tr>
<td>State of Nevada Grant 106 Receiv.</td>
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<tr>
<td>U.M.T.A. Section 8 Grant Receiv.</td>
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### LIABILITIES

#### GENERAL FUND

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<td>Contract Payable- IBM (M.C.)</td>
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<td>Contract Payable- IBM (W.P.)</td>
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### FUND BALANCES

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### FUND BALANCE

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# TAHOE REGIONAL PLANNING AGENCY
## STATEMENT OF REVENUES & EXPENDITURES
(As of September 30, 1982)

### REVENUES

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<tr>
<th></th>
<th>CURRENT PERIOD</th>
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### EXPENDITURES

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### EXCESS OF REVENUES OVER EXPENDITURES

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<td>$ 25,044.57</td>
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### FUND BALANCE BEGINNING

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### FUND BALANCE

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<th>YEAR-TO-DATE</th>
<th>REVISED BUDGET</th>
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</thead>
<tbody>
<tr>
<td>$ 855,012.15</td>
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TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Hunter/Barrow, 2 Unit Condominium Parcel Map, Washoe County, APN 124-162-25, TRPA File #81-1200

Applicant: Hunter/Barrow

Project Description: The applicant proposes to convert an existing 2 unit apartment complex into condominium units. The structures have existed for five years. The certificate of occupancy was issued on December 28, 1977. The building permits for construction were issued in May, 1977.

Project Location: 920 Wendy Lane, Lot 9 Country Club of Incline

Site Description: The lots currently contains 2 units and associated parking areas which cover 41% of the site. The soil type in the area is Inville stony coarse sandy loam, which has moderately high permeability, and a slight erosion hazard.

Review Per Section: Section 8.34 Nevada Side Land Use Ordinance.
Section 3.31 TRPA Ordinance 81-8.
Article VI(b) TRPA Compact.

Land Use District: High Density Residential

Land Capability Classification: Soil Type: IsC, Land Capability Level 6, Allowable Land Coverage 30%

Land Coverage: At the time of issuance of the building permit the allowed land coverage for a lot less than 2 acres in size in the HDR land use district was 50% under Section 9.23 of the Nevada Side Land Use Ordinance.

Lot Size: 7,000 sq. ft.
Permitted Coverage: 3,500 sq. ft. (50%)
Existing Coverage: 2,922 sq. ft.
Proposed Coverage: 2,922 sq. ft.

Building Height: Proposed: 35' Permitted: 12'

Impact Analysis and Mitigation Measures:

Land and Water: As a condition of approval the applicant will be required to prepare and implement an onsite drainage, revegetation and slope stabilization plan in compliance with the standards set forth in the 208 Plan.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies.

The staff has analyzed applicable elements for consistency and has made the following findings:

10/6/82
JD; sf

Consent Calendar #1.
<table>
<thead>
<tr>
<th>Applicable Elements</th>
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<td>Nevada Division of Environmental Protection Air Quality Plan</td>
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<tr>
<td>Federal Air Quality Standards</td>
<td>Consistent</td>
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</tbody>
</table>

Staff Comment: Based on information provided with the application, a field review of the project, and evaluation of the proposal, the staff cannot identify any significant issues for discussion.

The following actions must be taken and findings made to approve the proposed condominium parcel map:

1. This condominium parcel map will not result in any increase in development potential or in present or potential land coverage or density and will not have any adverse impact on the health, safety, general welfare or environment of the region.

2. The action and findings listed on attachment A.

Agency staff recommends the following conditions of approval:

1. Prior to recordation of the parcel maps, the applicant shall prepare a drainage, slope stabilization and revegetation plan for the subject project. The plan shall be designed in conformance with the 208 Water Quality Plan standards and shall be subject to TRPA staff approval.

2. Standard conditions of approval 1b, 1c, 1e, 5, 7, 9 and 10-19, inclusive.
Tahoe Regional Planning Agency
Staff Summary

King/Barrow, 2 Unit Condominium Parcel Map, Washoe County, APN 124-163-11, TRPA File #82-1206

Applicant: King/Barrow

Project Description: The applicant proposes to convert an existing 2 unit apartment complex into condominium units. The structures have existed for four years. The certificate of occupancy was issued on August 21, 1978. The building permits for construction were issued on October 13, 1977.

Project Location: 943 Harold Drive

Site Description: The lots currently contains 2 units and associated parking areas which cover 40% of the site. The soil type in the area is Inville stony coarse sandy loam, which has moderately high permeability, and a slight erosion hazard.

Review Per Section: Section 8.34 Nevada Side Land Use Ordinance. Section 3.31 TRPA Ordinance 81-8. Article VI(b) TRPA Compact.

Land Use District: High Density Residential

Land Capability Classification: Soil Type: IsC, Land Capability Level 6, Allowable Land Coverage 30%

Land Coverage: In 1977 when the building permit was issued the permitted land coverage on the site was 50% under Section 9.23 of the TRPA Land Use Ordinance.

Lot Size: 6,287 sq. ft.
Permitted Coverage: 3,144 sq. ft. (50%)
Existing Coverage: 2,502 sq. ft.
Proposed Coverage: 2,502 sq. ft.

Building Height: Proposed: 35' Permitted: 24'

Impact Analysis and Mitigation Measures:

Land and Water: As a condition of approval the applicant will be required to prepare and implement an onsite drainage, revegetation and slope stabilization plan in compliance with the standards set forth in the 208 Plan.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

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Consent Calendar #2.
<table>
<thead>
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<td>Federal Air Quality Standards</td>
<td>Consistent</td>
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</tbody>
</table>

**Staff Comment:** Based on information provided with the application, a field review of the project, and evaluation of the proposal, the staff cannot identify any significant issues for discussion.

The following actions must be taken and findings made to approve the proposed condominium parcel map:

1. This condominium parcel map will not result in any increase in development potential or in present or potential land coverage or density and will not have any adverse impact on the health, safety, general welfare or environment of the region.

2. The action and findings listed on attachment A.

Agency staff recommends the following conditions of approval:

1. Prior to recordation of the parcel maps, the applicant shall prepare a drainage, slope stabilization and revegetation plan for the subject project. The plan shall be designed in conformance with the 208 Water Quality Plan standards and shall be subject to TRPA staff approval.

2. Standard conditions of approval 1b, 1c, 1e, 5, 7, 9 and 10-19, inclusive.
Barton Memorial Nevada Medical Clinic  
Kingsbury Grade, Douglas County  
APN 1-130-06-05, TRPA File #82-1302  

Applicant: Ronald R. Newton

Project Description: Barton Memorial Hospital proposes to remodel an existing 2-story professional office building to convert the lower floor into a minor emergency room including X-ray facilities and the upper floor into medical offices. The office building contains 1,815 square feet on the lower floor and 2,970 square feet on the upper floor (see attached building elevations). No modifications to existing land coverage are proposed and no structural modifications or building additions are proposed.

The reason for the project is to provide medical care for injuries resulting from accidents in the vicinity of the casinos and the Heavenly Valley North ski area.

Project Location: The existing office building is on a 6,000 square foot parcel (60' x 100') which is located north of Kingsbury Grade, approximately 720 feet from the intersection of Kingsbury Grade and U.S. Highway 50 (see attached parcel map). The parcel is 109 feet from the right-of-way of Kingsbury Grade. Access to the parcel is provided by an L-shaped easement that is also utilized for parking.

Site Description: The site, including the easement, is almost entirely covered with building and a combination of paved and unpaved parking areas.

Review Per Section: - Section 7.12(15) of the Nevada Side Land Use Ordinance requires Governing Board approval of an administrative permit for medical facilities.  
- Article VI(b) of the TRPA Compact

Land Use District: The property is classified Tourist Commercial, which permits medical facilities and professional offices.

Land Capability Classification: Level 3, JvD (Jabu coarse sandy loam, shallow variant, 5 to 15%), 5% allowable land coverage

Land Coverage: There is approximately 100% land coverage on the subject parcel and within the easement. No modifications to land coverage are proposed. The existing land coverage is as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Area</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Parcel - Building</td>
<td>2,794 sq. ft.</td>
<td>(47%)</td>
</tr>
<tr>
<td>- Paving &amp; Compacted Area</td>
<td>3,206 sq. ft.</td>
<td>(53%)</td>
</tr>
<tr>
<td>Total:</td>
<td>6,000 sq. ft.</td>
<td>(100%)</td>
</tr>
<tr>
<td>Easement - Paving &amp; Compacted Area</td>
<td>11,750 sq. ft.</td>
<td>(100%)</td>
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Consent Calendar Item 3.
Barton Medical Facility
Kingsbury Grade
page two

Building Height: The existing structure has an average height of 25 feet. The average permitted height in the TC use district is 40 feet.

Impact Analysis and Mitigation Measures:

Water Quality - To comply with the TRPA 208 Plan, erosion control and drainage improvements must be implemented on the site as part of this project approval. Completion of these improvements will have a positive effect on water quality.

Traffic Circulation and Air Quality - Before the building was purchased by Barton Memorial Nevada Medical Clinic, it was a professional office. The businesses consisted of a real estate office, attorney's office, and two professional accounting firms. Conversion of the building to a minor emergency room and medical offices should not result in a significant increase in vehicle trips generated from the site since the uses involved are similar. Establishing a minor emergency room at this location will eliminate unnecessary trips to Barton Memorial Hospital and therefore will reduce vehicle trips on U.S. Highway 50.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

<table>
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<td>Consistent</td>
</tr>
<tr>
<td>Federal/State Air Quality Standards</td>
<td>Consistent</td>
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</tbody>
</table>

Project Analysis and Issues for Discussion: The applicant has not identified the number of existing parking spaces on the site; therefore, it has not been determined that the site contains adequate parking for the proposed uses. Considering the amount of existing land coverage on the site, it would appear that an adequate parking and traffic circulation plan could be implemented on site.

Required Actions and Findings:

1. The actions and findings listed on Attachment A.

2. The standard conditions of approval listed on Attachment D.

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Consent Calendar Item 3.
3. The following special conditions:

a. The applicant shall prepare a parking and traffic circulation plan for the subject site. The plan shall provide adequate parking for the proposed uses and shall be submitted to and approved by Agency staff prior to issuance of the TRPA permit. The approved parking and circulation plan shall be implemented within 1 year from the date of this approval.

b. The erosion control, revegetation and drainage plans required under standard condition of approval 1a. shall be implemented within 1 year from the date of this approval.

c. Prior to issuance of the TRPA permit, Douglas County must issue an administrative permit for the proposed medical clinic.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Camp Richardson Marina Repairs, El Dorado County,
APN 32-110-01, TRPA File #82285

Applicant: Richard Schwartz

Project Description: The applicant proposes to reconstruct the existing pier, boat slips and loading dock at the Camp Richardson Marina (formerly Benders Marina). The existing facilities are old and have been damaged severely by storm activity. In addition, the pier presently encroaches into the area lakeward of the property to the north and therefore is in violation of the Agency's setback requirements. The proposal includes relocating the pier and boat slips further to the south to bring the offshore marina facilities into conformance with the required setbacks. The offshore marina facilities are conforming uses because they were existing at the time the Shorezone Ordinance was adopted. However, the onshore facilities are nonconforming because a marina is not a permitted use in areas classified Rural Estates.

Project Location: Jameson Beach Road, El Dorado County

Site Description: The marina is located on a barrier beach. The shoreline is sandy and gently sloping. There is an extensive buoy field located lakeward of the marina. This buoy field has not been authorized by the Agency through issuance of a permit as required under Section 17.20 of the Shorezone Ordinance.

Review Per Section: Article VI(b) of the Compact
Section 4.11 of the TRPA Shorezone Ordinance

Land Use District: Rural Estates (RE)

Shorezone Tolerance District: 1

Land Capability Classification: 1B

Impact Analysis and Mitigation Measures: The proposal will result in a reduction in the number of boat moorings and pilings supporting the pier and boat slips. The loading dock is proposed to be reduced in size. The applicant has agreed to submit an application to authorize the existing buoy field.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has

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Consent Calendar Item 4.
Camp Richardson Marina Repairs
page two

made the following findings:

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<tr>
<td>TRPA Shorezone Ordinance</td>
<td>Consistent</td>
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<tr>
<td>California Air Quality Plan</td>
<td>Consistent</td>
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</table>

Project Analysis and Issues for Discussion: The applicant has reduced the impacts of the marina facilities by relocating the pier, reducing the number of moorings and number of impermeable piling supports.

Required Actions and Findings:

1. Actions and findings listed on Attachments A and B.

2. Conditions listed on Attachment F and the following special condition:
   a. The applicant must submit an application to the Agency for the existing buoys within 6 months from the date of approval for the subject project.
H. Martin, Single Family Dwelling, 1980 Permit Status, Level 1A, Hubbard Road, Douglas County, APN 07-332-05, TRPA File #81832

Applicant: Henry Martin

Project Description: The applicant requests approval to construct a 3 story, tyrolian style single family dwelling with a 2 car garage. An existing 100 foot long driveway is to be used to access the dwelling.

Project Location: Hubbard Road, south of Kingsbury Grade

Site Description: The subject building site was graded and prepared for building in 1980 in reliance on a verbal agreement with Douglas County. At that time the driveway was also graded. The site was basically a rock outcrop prior to preparation of the building site.

Review Per Section: Article VI(b) of the Compact
Section 20.32 of TRPA Ordinance 81-5

Land Use District: General Forest (GF)

Land Capability Classification: Level 1A, CaF soil type

Land Coverage:

Total lot size: 65,340 sq. ft.
Allowable Coverage: 3,600 sq. ft. (Section 9.24, Nevada Side Land Use Ordinance)

Proposed Coverage: 3,544 sq. ft.

Building Height: Proposed: 34' Permitted: 35'

Impact Analysis and Mitigation Measures: The application is eligible for 1980 building status (as determined by Douglas County) and received sewer and water permits prior to 1980. This qualifies the project for exemption from the 208 regulatory Ordinance No. 81-5 under Section 20.32, which reads as follows:

The single family house is within, or is to be built within, the portion of the Region located within the State of Nevada, and the applicant for permits pertaining thereto received both the following: (a) Sewer and water permits, receipt of which occurred prior to December 19, 1980; and (b) An allocation for a building permit with the limitations imposed for calendar year 1980 pursuant to Article VI(c) of the Compact.

The proposed project is not exempt from the TRPA Compact which requires an EIS be prepared for projects that exceed land capability constraints; however, the EIS for the 208 Plan amendments was programmatically applied to single family dwellings with 1980 status.

10-13-82
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CONSENT CALENDAR 5.
The building and access road was graded in 1980 with reliance on verbal approval by Douglas County. Further site disturbance created by this project will be minimal. The road accessing the property, Hubbard Road, is not paved and requires extensive stabilization. In order for this project to comply with current 208 standards, Hubbard Road must be improved as part of this project.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

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<td>Federal Nondegradation Policy</td>
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<tr>
<td>Federal/State Water Quality Standards</td>
<td>Inconsistent*</td>
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*The above-stated elements documented as inconsistent are as such because the project does not meet the land capability requirements. This class of project was considered to be exempt from these standards, however, and has been included in the EIS prepared for the 208 Water Quality Plan.

Project Analysis and Issues for Discussion: Staff can identify the following issue:

1. The applicant has an easement to use Hubbard Road. The road is currently unpaved and unstable. Before final approval is granted, the project must comply with the Handbook of Best Management Practices which requires that the road be paved and stabilized. The following conditions should be placed on this approval:

   (a) Prior to issuance of a TRPA permit, improvements shall be made to Hubbard Road to bring it up to 208 standards. These improvements shall be made in accordance with plans approved by Agency staff. These improvements shall include paving the road, stabilizing all existing cut and fill slopes and installation of drainage facilities. If portions of Hubbard Road are required to be improved to 208 standards by another applicant, this applicant is relieved from that responsibility.

   (b) Final details for a drainage plan shall be submitted by the applicant and approved by Agency staff.

Required Actions and Findings: Based upon the identified impacts, Agency staff recommends the following conditions:

1. Actions and findings listed on Attachment H
2. Standard conditions of approval listed on Attachment D
3. The special conditions listed herein.

10-13-82  CONSENT CALENDAR 5.
K. Buckingham, Level 1A Dwelling With 1980 Building Permit Status, Zephyr Heights, Douglas County, APN 05-160-16, TRPA File #82-1290

Applicant: Keith Buckingham

Project Description: The applicant proposes to construct a 2-story single family dwelling on a site which has been graded in reliance on a 1979 building permit.

Project History: Douglas County originally issued a building permit for the subject parcel on April 19, 1979. Substantial grading occurred at that time. The permit expired on April 19, 1980. The applicant began to pursue reinstatement of the permit in 1980. On September 3, 1981, the Douglas County Commission reinstated the permit. This reinstatement came to the attention of TRPA staff in early October. Since it was an expired permit that was reinstated, it is considered a new permit and therefore subject to TRPA approval. Douglas County has made the determination that this permit qualifies for 1980 status. Agency staff concurs with the County's determination of 1980 status.

Project Location: 647 N. Martin Drive, Zephyr Heights Unit #3

Site Description: The subject parcel is an uphill lot with a large graded area at street level. The majority of the building site is within this graded area. The applicant proposes to stabilize the existing cut slopes and to provide a drainage plan for the parcel.

Review Per Section: Article VI(b) of the Compact  
Section 20.32 of Ordinance 81-5

Land Use District: Low Density Residential

Land Capability Classification: Level 1A, RtF Soil Type

<table>
<thead>
<tr>
<th>Land Coverage</th>
<th>Total Lot Size:</th>
<th>11,232 sq. ft.</th>
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<tbody>
<tr>
<td>Allowable Coverage:</td>
<td>2,800 sq. ft. (Sec. 9.24 Nevada Side Land Use Ordinance)</td>
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<tr>
<td>Proposed Coverage:</td>
<td>1,892 sq. ft.</td>
<td></td>
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</table>


Impact Analysis and Mitigation Measures: The applicant is eligible for 1980 building status (as determined by Douglas County) and received sewer and water permits prior to 1980. This qualifies the project for exemption from the 208 regulatory ordinance No. 81-5 under Section 20.32, which reads as follows:

The single family house is within, or is to be built within, the portion of the Region located within the State of Nevada, and the applicant for permits pertaining thereto received both of the following: (a) Sewer and water

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Consent Calendar Item 6.
permits, receipt of which occurred prior to December 19, 1980; and (b) An allocation for a building permit with the limitations imposed for calendar year 1980 pursuant to Article VI(c) of the Compact.

The proposed project is not exempt from the TRPA Compact which requires an EIS be prepared for projects that exceed land capability constraints; however, the EIS for the 208 Plan amendments was programmatically applied to single family dwellings with 1980 status.

The building site was graded in 1979 in reliance on a validly issued Douglas County building permit. Additional site disturbance created by this project will be minimal. The applicant proposes to stabilize the area as well as to provide a drainage system.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

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</tr>
<tr>
<td>Federal/State Water Quality Standards</td>
<td>Inconsistent*</td>
</tr>
</tbody>
</table>

* The above-stated elements documented as inconsistent are as such because the project does not meet the land capability requirements. This class of project was considered to be exempt from these standards, however, and has been included in the EIS prepared for the 208 Water Quality Plan.

Project Analysis and Issues for Discussion: The impacts created by the project will be mitigated to the extent possible and those impacts are not excessive. Staff can identify only one issue for discussion. There is currently a water moratorium in Zephyr Heights due to the inadequacy of the water system. Douglas County has made the determination that no building permits that affect water usage will be issued in Zephyr Heights. The County Commissioners did reinstate this permit, however, and found that it was originally issued prior to the water moratorium.

Required Actions and Findings: Based upon the identified impacts, Agency staff recommends the following:

1. Actions and findings listed on Attachment H.
2. Standard conditions of approval listed on Attachment D.
3. The following special condition of approval: The final details of the drainage plan shall be approved by TRPA staff prior to TRPA permit issuance.

10/12/82 Consent Calendar Item 6.
MEMORANDUM

October 13, 1982

To: The TRPA Governing Body

From: The Staff

Subject: Wayne Prim, Final Approval of a Parcel Map and Administrative Permit to Construct a Road, TRPA File #81-1246

The staff has received a request from the applicant's representative asking for a 30 day continuance of the subject project so that additional information can be submitted.
Rocky Point Subdivision/Ferrari, Man-Modified Area,
Tunnel Creek Road Improvements, Washoe County,
TRPA File #82202

Applicant: Paul Ferrari

Project Description: The applicant is requesting a permit to construct a 20-foot wide, paved roadway surface along the existing bench area of Tunnel Creek Road. The applicant is also proposing to construct drainage and erosion control improvements in order to have that portion of the Rocky Point Subdivision consisting of the lots located below and adjacent to the road classified as "adequate" under Section 12.00 of Ordinance 81-5. Such a classification would allow the Agency to process pending applications for single family dwellings on these lots under the case-by-case review procedures.

Since the subject property is classified as high hazard land capability, level 1a, the proposed road improvements cannot be approved by the Agency unless the application for such improvements falls under one of the exceptions to the prohibitions set forth under Section 12.60 of TRPA Ordinance 81-5. This section prohibits any grading, clearing, removal of vegetation, filling or creation of land coverage upon land within land capability districts 1a, 1c, 2 and 3.

The applicant is requesting classification of the bench area of Tunnel Creek Road (92,300 sq. ft.) as man-modified, land capability class 5, in order to fall under the exception to the above-stated prohibitions set forth for man-modified areas under Section 12.63 of Ordinance 81-5. Then, because the proposed road requires 46,400 sq. ft. of land coverage and the permitted coverage in the area proposed to be recognized as man-modified is only 23,075 sq. ft., the applicant is requesting that the compacted main traveled way (37,387 sq. ft.) and the compacted appurtenant traveled way (18,260 sq. ft.) be recognized as existing land coverage. The applicant then proposes to replace this existing land coverage under the provisions of Section 9.21(3) of the Nevada Side Land Use Ordinance, in order to construct the road improvements.

As an alternative, if the areas proposed by the applicant are not recognized as existing land coverage or do not meet the requirements for replacement, the applicant requests that the additional land coverage be authorized based on a finding that Tunnel Creek is a "local road" under Section 8.25(4) of the Nevada Side Land Use Ordinance.

Road Improvements - To provide adequate vehicular access and utility services to the lower lots along Tunnel Creek Road, the applicant proposes to construct a 20-foot wide paved road and to install a 6-inch diameter domestic water main and 6-inch diameter sewer line along the present alignment of Tunnel Creek Road (see typical section). These improvements will extend from the point where Tunnel Creek Road intersects Parrin Road to the southerly boundary of the subdivision, a total distance of 2,255 feet. Including the proposed drainage and slope stabilization structures, the total width of the area disturbed during construction will be in excess of

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Agenda Item VI A. 2.
30 feet. To provide an adequate turn-around area, a 65-foot diameter cul de sac is to be constructed 220 feet from the southerly end of the proposed road improvements. The improvement plans indicate that a 2- to 3-foot high "crib wall" will be constructed as needed to support the turn-around. The present width of the bench at this location is approximately 45 feet.

The Washoe County Commissioners granted a variance to the applicant on December 22, 1981 allowing Tunnel Creek Road to serve as access to the lot in the Rocky Point Subdivision, provided the road is improved to a minimum width of 20 feet.

Man-Modified - Based on an analysis of the land capability characteristics of the bench area in a March 3, 1982 report prepared for the applicant by Dr. Clarence M. Skau and Dr. Elwood Miller, Dr. Skau recommends that the existing bench area of Tunnel Creek Road be classified as man-modified and recognized as a land capability class 5, permitting 25% land coverage. The specific area that Dr. Skau recommends be classified as man-modified is the area between the toe of the existing cut slope and the top of the existing fill slope. This area is 2,255 feet in length and is a total of 92,300 square feet in area. 

Existing Land Coverage - Based on a report prepared by Pezonella Associates, Inc., which identifies areas of Tunnel Creek Road where the relative soil compaction is 85 to 95%, the applicant is requesting that generally the center portion of the bench area (the main traveled way) be recognized as existing land coverage. The applicant's consultant, Dr. Skau, has delineated the area that in his opinion is existing land coverage. This delineation is based on Dr. Skau's determination that the "area closely conforms to areas with wheel tracks, lack of vegetation, highly compacted soil, etc." The area delineated by Dr. Skau extends from the southerly boundary of the Rocky Point Subdivision to a point adjacent to the Ponderosa Ranch where the existing paved portion of Tunnel Creek Road terminates. Dr. Skau estimates that, excluding some areas between the wheel tracks that contain vegetation, there is 37,387 square feet of existing land coverage within the main traveled way of Tunnel Creek Road.

In addition, the applicant has identified areas adjacent to the main traveled way that, again based on relative compaction, in his opinion are existing land coverage. These areas are north of the subdivision boundary and are a combined area of 18,260 sq. ft.

Local Road - If Tunnel Creek Road is classified as a "local road" under Section 8.25(4), the total amount of land coverage proposed (46,400 sq. ft.) could be excluded from the land coverage calculations because, as required under Section 8.25(4), the road will not exceed 20 feet in width and the property is classified General Forest.

10/15/82

Agenda Item VI A. 2.
Project Location: The Rocky Point Subdivision is located adjacent to State Highway 28, approximately 1/2 mile south of the Ponderosa Ranch (see Attachment A). The subdivision is located on a west-facing slope of the Carson Range and is within 500 feet of Lake Tahoe. Tunnel Creek Road begins just north of the intersection of State Highway 28 and Lakeshore Boulevard and corresponds to Fifth Street in the subdivision (see Attachment B).

Site Description: A report prepared by the TRPA Land Capability Review Team (copy attached) contains detached descriptions of geomorphology, soils, hydrology, vegetation and existing road conditions on pages 1-9. The following is a summary of the team's findings:

Geomorphology - The Rocky Point area is composed of massive granitic rock that is overlain by a mantle of grus. The area consists of steep to extremely steep mountain side slopes that have been carved by stream erosion into an intricate pattern of V-shaped canyons and intermittent drainage channels. The slopes in the subdivision area are moderately steep (20-40%) at the proposed construction sites and steeper both above Tunnel Creek Road and adjacent to Highway 28. There is an area less than 3 acres in size within and contiguous to the subdivision where slopes are 20 to 30%.

Soils - Soils typical of the Caqwin series and associated deeper soil cover most of the Rocky Point Subdivision below Tunnel Creek Road and extend north and south beyond the subdivision boundaries.

Hydrology - Within the vicinity of the subdivision, the topography presently lacks well defined surface drainage channels. The coarse textured soils which cover the site probably produce little surface runoff due to their high permeability and substantial depth. Other factors influencing this low runoff characteristic are the uniformly thick shrub cover and the absence of significantly disturbed areas within the site boundaries.

Currently, only a small percentage of the area is man-modified. A portion of the segment of Tunnel Creek Road which traverses the site at its upper boundary has undergone significant compaction due to intermittent vehicular traffic. However, the portion of roadway that is significantly compacted is limited to a fairly well defined set of tire tracks. The road's undulating surface, as well as the presence of roadside vegetation, reduces the potential for generation of concentrated surface runoff downslope or off-site.

Vegetation - The dominant vegetation in the Rocky Point area is a dense cover of brush and a second growth stand of Jeffrey pine with a few large, older Jeffrey pines present. The unforested and partially forested portions of the parcel are covered by a nearly continuous stand of brush that is dominated by greenleaf manzanita. Along Tunnel Creek Road, the brush has invaded the base of the cut bank, the roadbed at the margin of the fill, the lower half of fill slope and, to a lesser degree, the road surface between the tire tracks.
Existing Road Conditions - Four randomly selected road width transects were measured on the Rocky Point Subdivision site by Review Team members during the field inspection of June 22, 1982. These measurements provide the following average road width dimensions:

<table>
<thead>
<tr>
<th>Surface Type</th>
<th>Width (ft)</th>
<th>Slope (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cut slope surface</td>
<td>14.5</td>
<td>74</td>
</tr>
<tr>
<td>Road surface</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) vegetated cut slope margin</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>b) vegetated fill slope margin</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>c) wheel traffic lanes</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>d) vegetated zone between wheel lanes</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Fill slope surface</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) generally unvegetated upper portion</td>
<td>10</td>
<td>58</td>
</tr>
<tr>
<td>b) generally vegetated lower portion</td>
<td>10</td>
<td>58</td>
</tr>
</tbody>
</table>

A typical section depicting the average road width dimensions is shown on Attachment C and a photograph of the road is Attachment D. The 12 foot dimension on the photo shows the average width of the wheel tracks and the 30 foot dimension shows the area that must be disturbed to construct the proposed road improvements.

Review Per Section: Article VI(b) TRPA Compact
Sections 8.24 & 8.29 Nevada Side Land Use Ordinance
Sections 12.60 & 14.00 TRPA Ordinance 81-5

Land Use District: The Rocky Point Subdivision is classified General Forest by the TRPA. In April, 1981, the TRPA Governing Board made the findings required under Section 9.13 of the Nevada Side Land Use Ordinance to recognize one single family dwelling as a permitted use on the 32 lots in Blocks D, E, F and G. The 7 lots below and adjacent to Tunnel Creek Road are in Block D.

Land Capability Classification: The report prepared by the Land Capability Review Team contains a detailed analysis of land capability of the subdivision. The following is a summary of the Review Team's findings:

Geomorphic Unit - The Rocky Point Subdivision is presently mapped as geomorphic unit C3 (steep, strongly dissected lands) which is a member of the high hazard geomorphic Group I lands (Baily, 1974). The C3 unit is located on stream cut granitic mountain slopes. It is characterized by dominance of the shallow Toem soils and abundant rock outcrop on slopes greater than 30 percent but does include smaller areas of the deeper Caqwin soils and areas of slopes less than 30 percent (Bailey, 1971).

The soils observed on the Rocky Point Subdivision are typical of the deeper components of the Caqwin soil map unit. However, when these soils are combined with the surrounding terrain to obtain the required geomorphic unit delineation area of 1 square mile, aerial photo interpretation indicates that the dominant soil components are the shallow Toem soil and granitic
rock outcrops on slopes greater than 30 percent. The Cagwin soils and slopes less than 30 percent are a minor part of this overall landscape. Therefore, the correct geomorphic map unit for the Rocky Point area is C3 (as presently mapped) which is a member of the Group I high hazard lands.

Soil Unit - The soil unit mapped in the vicinity of the Rocky Point Subdivision by the Tahoe Basin Area Soil Survey is a Rock out-crop, Toem complex, 30 to 50% slopes (map symbol RTF). The soils typical of the Cagwin series and associated deeper soils that were found in the vicinity of the Rocky Point Subdivision cover an area more than sufficient in size to provide the 5 acre minimum required by the TRPA to establish a new map unit.

Therefore the correct soil map unit in the area of the Rocky Point Subdivision is a Cagwin-rock outcrop complex, 30 to 50 percent slopes (map symbol CaF). The CaF soil unit is assigned to land capability class 1a, which allows 1 percent impervious surface coverage.

Man-Modified Area - Based on consideration of slope, erosion and runoff potential the TRPA Land Capability Review Team generally agrees with Dr. Skau's opinion that the existing bench area of Tunnel Creek Road exhibits characteristics closest to soil units found in land capability class 5. However, if the total man-modified area is considered, including the adjacent cut and fill slopes, the slope, erosion and runoff potential of these adjacent areas have become more critical than was the case prior to the modification.

Although the team recognizes that the bench area of Tunnel Creek Road exhibits soil type characteristics closest to soil units found in land capability class 5, the team has also concluded that the Rocky Point Subdivision is within a high hazard geomorphic unit. Section 8.29 of the Nevada Side Land Use Ordinance states that an administrative permit may be issued to classify an area as man-modified only if the applicant shows and it is expressly found that:

(a) The land was modified prior to February 10, 1972, by man's placement of fill, dredging or grading in a fashion substantially altering the land's soil or geomorphic characteristics;

(b) The modification was so substantial that the land generally exhibits the characteristics of land in another land capability district, which district shall be expressly identified, rendering the limitations of such other district properly applicable to the land; and

(c) The land coverage authorized by the permit will not cause substantial harmful environmental consequences on the land of the applicant or on other lands or waters or in the region, generally.

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The TRPA Land Capability Review Team and Agency staff can not find that the grading of Tunnel Creek Road prior to February 10, 1972 altered the land's geomorphic characteristics so substantially that the land generally exhibits characteristics of land in a low or moderate geomorphic unit.

The bench area of Tunnel Creek Road is a small, linear intrusion (91,587 square feet, 2.1 acres) of a soil unit with characteristics similar to a land capability class 5, within a much larger landscape properly classified as high hazard geomorphic Group I lands. Consideration of such a linear feature as a separate geomorphic unit is substantially inconsistent with the geomorphic hazard rating system.

Agency staff believes the record is clear in terms of the Governing Board's intent in establishing the criteria for recognition of man-modified areas, and that the geomorphic classification criteria were specifically included to prevent existing roads in the Tahoe Basin from being recognized as man-modified areas. Dr. Skau representing the applicant at the September, 1982 Governing meeting, however, testified that in his opinion the geomorphic characteristics of the property were an inappropriate criteria for determination of the status under the ordinance providing for recognition of man-modified areas. He also stated that, in his opinion, it is not possible to change the geomorphic unit by creation of the road.

Existing Land Coverage: The Agency staff and the Land Capability Review Team cannot verify that there is a total of 55,647 sq. ft. of existing land coverage on the bench area of Tunnel Creek Road. Only the fairly well-defined set of tire tracks on the bench area are compacted to the extent necessary to be recognized as land coverage. Based on the measurements taken by the Review Team, the total area of the tire tracks is approximately 27,060 square feet (2 tire tracks at 6' widths x total length of 2,255').

The definition of land coverage in the Nevada Side Land Use ordinance does not refer to 75% relative soil compaction as a test to verify land coverage. The definition does state that "a structure, improvement or covering shall not be considered as land coverage if it permits at least seventy-five (75) percent of normal precipitation directly to reach the surface of the land underlying it". The test set forth in the definition for land coverage other than a structure, improvement or covering is "that the soil will be compacted so as to prevent substantial infiltration, such as parking of cars and heavy and repeated pedestrian traffic". It is the opinion of Agency staff and the Review Team that only the area of the well-defined set of tire tracks is so compacted as to prevent substantial infiltration.

The following information on relative compaction is taken from the Review Team's report: "Percent compaction is simply the ratio between soil density in the field and the maximum soil density obtained by a standard packing procedure. Even natural soils can have a fairly high value of "percent compaction". Based on natural soil densities published in the Tahoe Basin Soil Survey (Rogers, et al., 1974) and maximum densities listed by Pezonella Associates, the percent compaction for undisturbed laggin soils ranges from 64 to 74 percent. A better assessment of compaction's effect on plant growth and infiltration is obtained.
by comparing changes in soil porosity (volume of pores divided by total soil volume):

<table>
<thead>
<tr>
<th>Condition</th>
<th>Dry Density (pcf)</th>
<th>Relative Compaction (%)</th>
<th>Porosity (% soil pore space)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum compaction</td>
<td>118 to 125(^1)</td>
<td>100</td>
<td>24</td>
</tr>
<tr>
<td>Traffic zone</td>
<td>106 to 119(^1)</td>
<td>85 to 95</td>
<td>36 to 28</td>
</tr>
<tr>
<td>Road surface margins</td>
<td>87 to 102(^1)</td>
<td>74 to 82</td>
<td>47 to 38</td>
</tr>
<tr>
<td>Cagwin soil</td>
<td>80 to 87</td>
<td>64 to 74</td>
<td>52 to 47</td>
</tr>
</tbody>
</table>

1) Data from report by Pezonella Associates, April 21, 1982.

"From the above table, it is clear that discussion of infiltration and plant growth restrictions on Tunnel Creek Road must be qualified by the evident spatial variability in compaction. Only the portion of the road surface that carries the majority of vehicular traffic has been severely compacted. The remaining portion of the road surface and the entire fill slope maintain an ability to infiltrate water and support protective vegetation, as demonstrated by the growth of brush in these areas."

Existing Land Coverage Replacement:

Section 9.21(3) states that:

"Ordinarily, permitted replacements of nonconforming land coverage must be installed at the same location on the parcel where the nonconforming land coverage existed. Where the following is found, however, an applicant may be permitted to locate such replacement on an alternative site on the same parcel:

In order to show the existing land coverage to be replaced by the applicant, it must be found that

1. The applicant demonstrates beyond any reasonable doubt that the relocation to the alternative site will protect and enhance the natural environment of the parcel and surrounding lands to a substantially better extent than replacement on the original site.

2. The total nonconforming land coverage that exists on the parcel before the replacement will be reduced in amount by at least ten (10) percent, provided, however, that in the case of a replacement to which the provisions of subsection (b)(i) or (b)(ii) apply the reduction must be to ten (10) percent less than would otherwise be required."

For a distance of approximately 490 feet, construction of the 20 foot wide road section and drainage and erosion control structures requires new cuts into the existing cut slopes along Tunnel Creek Road. Since most of the lower portions

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of the existing cut slope are stabilized with mature manzanita, this relocation
of land coverage will not protect and enhance the natural environment to a
substantially better extent than replacement on the original sites. The
original sites do not contain vegetation.

If the areas the applicant has identified as existing land coverage are
recognized as such, the project conforms to the requirements of #2 above.

Local Road: The applicant also contends that the findings can be made under
Section 8.25(4) of the Nevada Side Land Use Ordinance to authorize the
additional land coverage required within the man-modified class 5 area under
a designation of Tunnel Creek Road as a "local road". The required findings
under Section 8.25(4) are that the improvements to the road: a) are
required to provide access to property other than that owned by the
applicant; b) will be constructed or maintained by a public agency or are
required to be improved by the terms of a lawfully created easement recorded
prior to February 10, 1972; c) the road is designed to minimize land
alteration and prevent erosion; and d) the road as so constructed or
improved will be sited in such a manner as to minimize the additional
coverage.

The applicant contends that Tunnel Creek Road is necessary without the Ferrari
Lot development since it serves the U.S. Forest Service, the fire department,
Southwest Gas, the Anderson and Richards property and other single family homes
in the area as well as the public as a whole. It is Agency Staff's position
that Tunnel Creek Road, in its present condition, has provided the services
cited by the applicant for a great number of years. The proposed road
improvements are required at this time only to satisfy Washoe County
requirements for access to the Ferrari Lot development. Therefore, Agency
staff cannot make required findings a) and b) under Section 8.25(4) relative to
the proposed road improvements. Agency staff can, however, make findings c) and
d).

Additional land coverage for "local roads" can only be granted in land capability
levels 4-7. Therefore, the applicant's request for additional land
coverage (local road) can be granted only if the bench area of Tunnel Creek Road
is found to be man-modified (level 5).

Impact Analysis and Mitigation Measures:

Land and Water - The applicant generally contends that construction of the
proposed road improvements to Tunnel Creek Road will result in a net benefit
to the environment. The improvement plans show 3 to 4 foot high gabion
retaining walls to stabilize new cut slopes created in areas where the
existing bench is less than 20 feet wide. The slopes behind these new
retaining walls are to be backfilled to a 2:1 slope and revegetated with

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jute matting and hydro-seeding. A drainage system consisting of infiltration trenches, cross culverts and drywells is to be constructed as part of the road improvements to provide on-site retention of stormwater runoff emanating from the new asphalt surface. The applicant has estimated, based on Universal Soil Loss Equation parameters, that soil erosion from Tunnel Creek Road will be reduced by 90% after construction of the proposed road improvements.

The TRPA Land Capability Review Team and Agency staff agree that rehabilitation of Tunnel Creek Road through the Ponderosa Ranch segment as described in the report prepared by Dr. Skau and Dr. Miller (March 3, 1982) is unquestionably desirable for water quality improvement and soil erosion control purposes. However, both the Review Team and the report by Dr. Skau and Dr. Miller recognize that the present vegetative cover on the Rocky Point Subdivision parcel prevents off-site transport of road related sediment from the subdivision area. The road grade near the north end of the parcel is about 3 percent toward the south. Therefore, road runoff originating on the subdivision parcel does not travel off the site toward Ponderosa Ranch, where severe road erosion is evident.

The present road drainage system on the subdivision parcel is an outskirted surface with occasional cross drains. The performance of this system has been sufficient to prevent large erosion events on the road. Very few rills and no gullies were observed within the parcel. There is evidence of surface erosion that originates primarily on the cut slope and is transported along the wheel lanes to the cross drains, where it is discharged onto the fill slope. This sediment is deposited in the brush fields adjacent to the roadway and does not appear to leave the parcel.

Paving the road surface would eliminate the existing infiltration capacity of this area and remove much of the roadway vegetation that presently helps to retard the flow of water from the road. Paving the road as proposed would both increase the volume of water flowing from the road and decrease the concentration time for these flows.

Plant Life - Construction of the proposed road improvements, including drainage and slope stabilization structures will require the removal of in excess of 30,000 square feet of native vegetation on high hazard lands. The applicant has not identified a mitigation measure to replace the associated loss of the nutrient stripping capacity of the soil-vegetation system. Work of the Tahoe Research Group (Coats, 1975; Leonard, et al., 1979) indicates that removal of vegetation and physical disturbance both accelerates release of nitrogen from soil and litter and decreases the nutrient stripping capacity of the soil-vegetation system. The nutrient stripping ability of the coarse-textured Cagwin soil is concentrated in the undisturbed litter and the surface soil horizons. The use of trenches to transfer road runoff directly to the subsoil will bypass infiltration through the soil surface and, therefore, reduce the removal of dissolved nutrients from the runoff."
The potential success of vegetative stabilization as proposed for slopes less than 2:1 is questionable. The problems inherent with such revegetation efforts on this site are detailed in the section on vegetation, pages 7-8, in the report prepared by the Review Team.

Sewage Treatment - Sewage treatment for the single family dwellings proposed along Tunnel Creek Road will require the Incline Village General Improvement District (IVGID) to expand its service area to include these lots.

Water - The applicant proposes to obtain domestic water for the proposed single family dwellings by installing individual wells on each lot. This proposal will further deplete the water supply in the Tahoe Basin at a time when IVGID does not have adequate water rights to serve the areas in Incline Village that are already committed to development.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

Applicable Elements
- Nevada Side Land Use Ordinance
- Nevada Side General Plan and Sub-Elements
- TRPA 208 Water Quality Plan
- Federal/State Air Quality Standards

Findings
- Inconsistent*
- Inconsistent*
- Inconsistent*
- Consistent

*Agency staff has found the subject project to be inconsistent with applicable element for the following reasons:

1. Agency staff and the Land Capability Review Team do not concur that the existing bench area of Tunnel Creek Road is man-modified as set forth under Section 8.29 of the Nevada Side Land Use Ordinance.

2. Agency staff and the Land Capability Review Team do not concur that there is 55,647 sq. ft. of existing land coverage on the bench area of Tunnel Creek Road.

3. Agency staff cannot find, as required under Section 9.21(3), that beyond any reasonable doubt the relocation of existing nonconforming land coverage will protect and enhance the natural environment of the parcel and surrounding lands to a substantially better extent than replacement on the original site.

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Agency staff cannot find that the proposed road improvements are necessary to provide access to property other than that owned by the applicant and, therefore, cannot find that said improvements qualify for recognition as a "local road" under Section 8.25(4) of the Nevada Side Land Use Ordinance.

Based on these four determinations by Agency staff the subject project is not exempt from the prohibitions on grading, clearing, removal of vegetation, filling or creation of land coverage upon land within land capability districts 1a, 1c, 2 and 3.

Project Analysis and Issues for Discussion:

1. Does the existing bench area of Tunnel Creek Road satisfy the criteria established under Section 8.29 of the Nevada Side Land Use Ordinance to be classified as man-modified, land capability class 5 (see section entitled Land Capability Classification, Man-Modified Area, page 5)?

2. Does the 55,647 sq. ft. area identified by the applicant meet the requirements to be recognized as existing land coverage (see section entitled Existing Land Coverage, page 6)?

3. Will relocating the existing nonconforming land coverage to other areas protect and enhance the natural environment to a substantially better extent than replacement on the original site (see section entitled Existing Land Coverage Replacement, page 7)?

4. Can the findings required under Section 8.25(4) of the Nevada Side Land Use Ordinance be made to grant additional land coverage based on recognition of the proposed improvements to Tunnel Creek Road as a "local road" (see section entitled Land Coverage, Local Road, page 8)?

5. Will the project result in significant adverse impacts on the environment (see section entitled Impact Analysis and Mitigation Measures, page 8) and should an EIS be prepared on the project? This includes questions regarding the cumulative impacts of construction of the seven single family dwellings which would be facilitated by reclassification of the Rocky Point Subdivision as Potentially Adequate.

It is important to note that if the finding cannot be made to classify the bench area of Tunnel Creek Road as man-modified under Section 12.63 of Ordinance 81-5, the applicant is prohibited from performing any grading, clearing of vegetation, filling or creation of land coverage on the bench area of Tunnel Creek Road.

Required Actions and Findings: To approve the subject project the Governing Board must take the following actions:

I. A motion for a finding of no significant effect with direction to staff to prepare the necessary certification document to be included with the permit.

II. Either the findings listed as Set A or as Set B must be made to approve the project:

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Agenda Item VI A. 2.
Set A

1. The existing bench area of Tunnel Creek Road, as identified by the applicant, is man-modified, land capability class 5, as set forth under Section 8.29 of the Nevada Side Land Use Ordinance.

2. There is 55,647 sq. ft. of existing land coverage on the bench area of Tunnel Creek Road.

3. The relocation of exiting nonconforming land coverage as proposed by the applicant will, beyond any reasonable doubt, protect and enhance the natural environment of the parcel and surrounding land to a substantially better extent than replacement on the original site.

4. Pursuant to Article III(g)(2) of the Compact, the project complies with the regional plan, ordinances, rules and regulations of the Agency.

5. Pursuant to Article VI(b) of the Compact, the project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Region.

6. There is substantial evidence in the record supporting the foregoing findings.

Set B

1. The existing bench area of Tunnel Creek Road, as identified by the applicant, is man-modified, land capability class 5, as set forth under Section 8.29 of the Nevada Side Land Use Ordinance.

2. The proposed improvements to Tunnel Creek Road are required to provide access to property other than that owned by the applicant.

3. The proposed improvements to Tunnel Creek Road will be constructed or maintained by a public agency or are required to be improved by the terms of a lawfully created easement recorded prior to February 10, 1972.

4. The proposed improvements to Tunnel Creek Road are designed to minimize land alteration and prevent erosion.

5. The proposed improvements to Tunnel Creek Road are to be sited in such a manner as to minimize the additional land coverage.

6. Pursuant to Article III(g)(2) of the Compact, the project complies with the regional plan, ordinances, rules and regulations of the Agency.

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7. Pursuant to Article VI(b) of the Compact, the project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Region.

8. There is substantial evidence in the record supporting the foregoing findings.

III. Agency staff recommends that to mitigate the impacts to the greatest extent possible the standard conditions listed on standard Attachment D be applied to the project.
TUNNEL CREEK ROAD
TYPICAL SECTION

SCALE: 1/4" = 1'-0"
TYPICAL TUNNEL CREEK ROADWAY SECTION

SCALE: 1" = 5'

ATTACHMENT E
TRPA INTERDISCIPLINARY REVIEW TEAM REPORT

for the

Rocky Point Subdivision

RECEIVED
BY

AUG 11 1982

TAHOE REGIONAL
PLANNING AGENCY

August 1982

Team Members:  John Munn, Soil Scientist

                    Robert Coats, Ecologist

                   Paul Seidelman, Geomorphologist

                    William Vandivere, Hydrologist
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CONCLUSIONS

REFERENCES
SITE DESCRIPTION

Setting

The Rocky Point subdivision is located along Tunnel Creek Road approximately one-half mile south of the entrance to Ponderosa Ranch. It is on a west-facing slope of the Carson Range and is within 500 feet of Lake Tahoe.

Geomorphology

The Carson Range in the vicinity of the Rocky Point area is composed of massive granitic rock that is overlain by a mantle of grus. The area consists of steep to extremely steep mountain sideslopes that have been carved by stream erosion into an intricate pattern of V-shaped canyons and intermittent drainage channels.

Slopes on the subdivision area are moderately steep (20 to 40 percent) at the proposed construction sites and become steeper both above Tunnel Creek Road and adjacent to Highway 28, which runs along the lower edge of the parcel. The boundary between slopes steeper and gentler than 30 percent on the parcel was mapped by measuring the distance between elevation contours on the subdivision site map prepared by Hastings and Associates on December 12, 1980. The map scale of 1 inch equals 40 feet combined with the contour interval of 2 feet gives a distance of 1/6 inch between contours at 30 percent slope. This analysis indicates that slopes with a steepness equal to or less than 30 percent occupy approximately 2.0 acres within the parcel (Figure 1). The results of this slope analysis are consistent with field observations and measurements made by the Review Team during site inspections on May 22 and June 22, 1982, but does seem to overstate the steepness of the north-east parcel corner when compared to measurements made on August 4, 1982. Stereo inspection of aerial photographs
covering the Rocky Point area indicates that the total extent of slopes less than 30 percent that are within and contiguous to the subject parcel is less than 3 acres.

Erosion processes in the Rocky Point area are dominated by gravity transport of both soil and rock materials. The source area for these materials is the long, steep (45 to 65%) slope that stretches from the ridge top above the parcel to about 75 feet above Tunnel Creek Road.

The slopes below the source area appear to be influenced by both mass wasting and surface erosion processes. Precipitation collection areas for two downslope, first order stream channels originate on the parcel. Runoff from these channels flows directly into Lake Tahoe where the entry of each channel is marked by a notch in the shoreline. Mass wasting processes appear to have dominated the shaping of these drainages, but the relatively gentle (25 to 45%) gradient of adjacent slopes indicates that mass movement events must occur during unusual conditions, such as extreme runoff events (which may have been part of past climate cycles that do not currently affect the area) or wet season earthquakes. Boulder roll under the influence of earthquake loading probably affects the site from time-to-time.

The depth of unconsolidated material on the more gently sloping (25 to 45%) portions of the subdivision is generally deeper than on adjacent areas with steeper slopes. This increased depth results from decreased rates of colluvium and surface erosion sediment transport across the relatively gentler terrain (which is analogous to the movement of water through channels or pipes where a decrease in water velocity requires an increase in cross sectional area to transport the same volume of water). Therefore, the increased depth to bedrock does not result from permanent deposition of sediments, but is, instead, the temporary
storage of materials in dynamic equilibrium with mass movement, creep, surface erosion, and bedrock weathering processes.

Soils

The soil unit mapped in the vicinity of the Rocky Point subdivision by the Tahoe Basin Area Soil Survey (Rogers, et al., 1974) is a Rock outcrop-Toem complex, 30 to 50% slopes (map symbol RtF). As described on page 29 of the Soil Survey Report, the RtF map unit occurs on granitic uplands and is composed of 25 to 50 percent granitic rock outcrop and 50 to 75 percent soils. About 85 percent of the soil area is composed of the shallow Toem series, and the remaining soil is the moderately deep Cagwin series plus similar soils with greater depth to bedrock.

The Toem soil, as described on page 35 of the Tahoe Basin Soil Survey, has a 5 to 10 inch thick surface layer with grayish-brown to dark grayish-brown dry color, loamy coarse sand to coarse sand texture, and 15 to 35 percent gravel. The subsoil has light yellowish-brown to pale-gray dry colors, coarse loamy sand to coarse sand texture, 20 to 40 percent gravel and grades into decomposed granitic bedrock at depths ranging from 8 to 20 inches.

The Cagwin soil, as described on page 9 of the Soil Survey, has a surface horizon that is 12 inches thick with dark grayish-brown to brown dry colors, loamy coarse sand or coarse sand texture, and 5 to 25 percent gravel. The subsoil has very pale brown to light yellowish-brown dry color, loamy coarse sand to coarse sand texture, 5 to 30 percent gravel, and grades into decomposed granitic parent material at 20 to 40 inches. About 25 to 30 percent of the Cagwin soil areas can be soils similar to the Cagwin series but with a thicker, dark colored surface layer and soil depth greater than 40 inches.

The soils on the Rocky Point site were observed and two hand-dug pits were described during the TRPA Land Capability Review Team inspection on
May 22, 1982. The soils observed at this time had both dark and light colored surface horizons with gravelly to very gravelly loamy sand textures and gravelly coarse sand subsoils that were deeper than 30 inches to granitic bedrock. These soils are typical of the Cagwin series and associated deeper soils.

The Cagwin and deeper soils cover most of the Rocky Point subdivision below Tunnel Creek Road and extend north and south beyond the subdivision boundaries. This area is more than sufficient to provide the 5 acre minimum area required by the TRPA to establish new map unit delineations. However, determination of the appropriate soil map unit is complicated by slope variations on the parcel and adjacent areas. As described in the preceding geomorphology section, the area with slope steepness less than 30 percent is less than 3 acres. This is too small to meet the TRPA criteria for separate map unit delineation, and is a minor part of the surrounding area of Cagwin soils on slopes greater than 30 percent. Therefore, the appropriate map unit designation for the parcel and adjacent areas is Cagwin-Rock outcrop complex, 30 to 50 percent slopes (map symbol CaF).

If the area of slopes less than 30 percent was sufficient for a separate soil unit delineation, then the map unit that best describes the new delineation would be a Cagwin-Rock outcrop complex, 15 to 30 percent slopes (map symbol CaE). Although the soil in this delineation may be deeper than is typical for the Cagwin series, it is otherwise similar, and the known acreage is much too small to establish a new soil map unit for the Soil Survey.

There is abundant evidence of surface soil instability on the parcel. Small openings within the brush fields are often devoid of surface litter, and pine needles on some openings near forested areas were organized into a series of small (about 4 inches wide), crescent shaped dams that held miniature pools of
loose sand. These features are probably caused by either surface runoff or wind activity. Also, soil within the brush fields has accumulated against the upslope sides of the brush plants, giving the surface a stair-step appearance. This results from surface water erosion or mechanical disturbance by animals and man. For example, walking across the slope causes the sandy, cohesionless soil to be pushed downslope.

**Hydrology**

Within the prescribed boundaries, the parcel topography presently lacks well defined surface drainage channels. Aerial photos indicate the presence of two small drainages downslope of the western property boundary. Drainage outlets are evident below Highway 28, along the shoreline of Lake Tahoe. However, an undetermined proportion of the surface runoff now forming the drainageways originates from Highway 28. The photos also suggest the presence of a colluvial fan above the parcel which stretches from near the ridge top downslope to Tunnel Creek Road.

The coarse textured soils which cover the site probably produce little surface runoff due to their high permeability and substantial depth. Other factors influencing this low runoff characteristic are the uniformly thick shrub cover and the absence of significantly disturbed areas within the site boundaries. These factors also contribute to the dissipation of erosive raindrop energy, and the lengthy time of concentration for any potential surface runoff increases the opportunity for infiltration. This, in turn, reduces both overland flow velocity and sediment transport capacity. Any indication of surface runoff which does occur on the site is quickly erased by subsequent dry ravelling of the soil. Except for infrequent, extreme hydrologic and geologic events (such as intense prolonged rainstorms, landslides, and other forms of slope failure) the downslope
movement of eroded soil by raindrop splash and entrainment in surface runoff is slow and deliberate. A topographic bench located just downslope from the parcel acts as a temporary depositional site for sediment transported by the aforementioned mechanisms. However, long-term deposition on the bench is subject to geomorphic adjustment which will eventually free more of the deposited sediment for continued transport downslope. Sediment transport below the bench is accelerated due to the existence of the two drainages sited earlier.

Currently, only a small percentage of the lot is man-modified. A portion of the segment of Tunnel Creek Road which traverses the site at its upper boundary has undergone significant compaction due to intermittent vehicular traffic. However, the unvegetated portion of roadway is limited to a fairly well-defined set of tire tracks, and its undulating surface, as well as the presence of roadside vegetation reduces the potential for generation of concentrated surface runoff downslope or off-site.

On-site groundwater influence is probably slight, again due to the high permeability and depth of the soils. It appears likely that percolated groundwater eventually reaches fracture systems in the underlying bedrock, since there is no indication of the presence of any intervening impervious soil stratum in the soil profiles.

Vegetation

The dominant vegetation on the Rocky Point area is a dense cover of brush and a second growth stand of Jeffrey pine (Pinus Jeffreyi) with a few large, older Jeffrey pines present. One white fir (Abies concolor) was observed on the parcel.

The unforested and partially forested portions of the parcel are covered by a nearly continuous stand of brush that is dominated by greenleaf manzanita
(Arctostaphylos patula). Other shrub species on the site include bitterbrush (Pershia tridentata), huckleberry oak (Quercus vaccinifolia), tobaccobrush (Ceanothus velutinus), and squaw carpet (Ceanothus prostratus). Along Tunnel Creek Road, the brush has invaded the base of the cutbank, the roadbed at the margin of the fill, the lower half of fill slope and, to a lesser degree, the road surface between the wheel lanes.

The present stand of pines probably developed a number of years after heavy logging and burning during the 1800's. Increment cores from trees on good sites in the nearby Incline area frequently show ages of about 85 years, which indicates logging at about that time. Cores from four trees on the Rocky Point parcel revealed ages of 65, 64, 71, and 120 years. It is likely that this site was also logged 80 to 90 years ago, and the heavy invasion of brush following logging retarded recovery of the forest. The pine stand is now approaching crown closure on some areas of the parcel, and a number of these trees are heavily infested with dwarf mistle toe.

Revegetation of the Rocky Point area following disturbance is limited by several factors:

1. The soil moisture storage capacity of the Cagwin soil is very low. Available water holding capacity (AWC) is generally less than 2 inches (Rogers, et al., 1974). The seriousness of such limited AWC is compounded by western exposure, warm summer temperatures, summer drought, and low annual precipitation.

2. The soil nutrient storage capacity of the site is also very low. Total nitrogen storage in the Cagwin soil is in the bottom 5 percentile when compared with 485 soils analyzed by the California Soil-Vegetation Survey, and cation exchange capacity is in the bottom 10 percentile (Rogers,
et al., 1974; Zinke, 1975). These data plus the low moisture storage capacity and low total precipitation at the site suggest, and the physical evidence confirms, that succession and tree growth are very slow in this area.

3. The technology of revegetation of severe sites in the Tahoe Basin is poorly developed, and procurement of native species suitable for outplanting is usually very difficult. For example: squaw carpet grows well from seed or cuttings, but mortality of transplants is very high; bitterbrush is easy to propagate from seed, but is sensitive to road salt and its open structure does not provide good erosion protection; huckleberry oak, while demonstrating good survival during the first season after planting, has shown complete failure in the third year (Leiser, et al., 1974). It is highly unlikely that excavating and transplanting established shrubs (which depend on an extensive, established root system for survival) would be effective in revegetating the site. The feasibility of this has not, to our knowledge, been demonstrated for any of the species on the site.

Existing Road Conditions

Tunnel Creek Road bisects the upper portion of the Rocky Point subdivision area. Four randomly selected road width transects were measured by Review Team members during the field inspection of June 22, 1982. These measurements provide the following average road width dimensions:
Cut slope surface (generally unvegetated) | Width (ft) | Slope (%) |
--- | --- | --- |
Road surface | 14.5 | 74 |
  a) vegetated cut slope margin | 5 | - |
  b) vegetated fill slope margin | 15 | - |
  c) wheel traffic lanes | 6 | - |
  d) vegetated zone between wheel lanes | 2 | - |
Fill slope surface | | |
  a) generally unvegetated upper portion | 10 | 58 |
  b) generally vegetated lower portion | 10 | 58 |

The subdivision site map shows that the road length on the parcel is about 500 feet.

Analysis of the road dimensions indicates that the total area of road disturbance is approximately 0.71 acre (31,250 square feet) of which about 50 percent (16,000 square feet) is either well or partially revegetated.

The road grade near the north end of the parcel is about 3 percent toward the south. Therefore, road runoff originating on the parcel does not travel off the site toward Ponderosa Ranch, where severe road erosion is evident.

The present road drainage system on the parcel is an outsloped surface with occasional cross drains. The performance of this system has been sufficient to prevent large erosion events on the road. Very few rills and no gullies were observed within the parcel. There is evidence of surface erosion that originates primarily on the cut slope and is transported along the wheel lanes to the cross drains, where it is discharged onto the fill slope. This sediment is deposited in the brush fields adjacent to the roadway and does not appear to leave the parcel.

**LAND CAPABILITY ANALYSIS**

**Geomorphic Unit**

Geomorphic units for the Lake Tahoe basin were delineated on the following basis (Bailey, 1974):
1. Minimum size of one square mile (640 acres),
2. Broad similarity in type of land form development,
3. Distinctive internal structure and land form surface material, and
4. Distinctive pattern of land areas.

The Rocky Point subdivision is presently mapped as geomorphic unit C3 (steep, strongly dissected lands) which is a member of the high hazard geomorphic Group I lands (Bailey, 1974). The C3 unit is located on streamcut granitic mountain slopes. It is characterized by dominance of the shallow Toem soils and abundant rock outcrop on slopes greater than 30 percent, but does include smaller areas of the deeper Cagwin soils and areas of slopes less 30 percent (Bailey, 1971).

Geomorphic units C1 and C2 also have the soil and land form components that are present in the Rocky Point area. Unit C2 is a member of the high hazard geomorphic Group I lands. It is dominated by Cagwin soils on 30 to 70 percent slopes with smaller amounts of the shallow Toem soils, granitic rockland, and Cagwin soils on slopes less than 30 percent. Unit C1 is a member of moderate hazard geomorphic Group II lands. It seems to have been developed following publication of Bailey's Geomorphic Analysis (1971) but prior to publication of the Land Capability Classification System (1974) in which it is listed. The description of geomorphic units in the 1974 publication was referenced to the 1971 paper. Consequently, no detailed description of the C1 unit is available. However, by inspection of units C2 and C3, it is logical to assume that the C1 soil should be dominated by Cagwin soils on slopes less than 30 percent with smaller amounts of the Cagwin soils and shallow Toem soils on slopes greater than 30 percent. This is consistent with the description of moderate hazard lands (Bailey, 1974) which must have a lower percentage of
hazardous lands, and the hazardous areas must be scattered across the landscape so that they can be avoided by land disturbing activities.

The soils observed on the Rocky Point subdivision are typical of the deeper components of the Cagwin soil map unit. These soils are, in turn, components in each of the alternative geomorphic units: C1, C2, and C3. However, when soils on the parcel are combined with the surrounding terrain to obtain the required geomorphic unit delineation area of 1 square mile, aerial photo interpretation indicates that the dominate soil components are the shallow Toem soil and granitic rock outcrops on slopes greater than 30 percent. The Cagwin soils and slopes less than 30 percent are a minor part of this overall landscape. Therefore, the correct geomorphic map unit for the Rocky Point is C3 (as presently mapped) which is a member of the Group I high hazard lands.

Land Capability Classification

The land capability classification system automatically designates all geomorphic Group I (high hazard) lands as land capability class 1, which allows only 1 percent impervious surface coverage. Within Group I lands, only man modified environments and areas selected for case-by-case review are evaluated for site specific modification of surface coverage limits. For the purposes of such review, the correct soil map unit in the area of the Rocky Point subdivision is a Cagwin-Rock outcrop complex, 30 to 50 percent slopes (map unit symbol CaF, see Soils section for details). The CaF soil unit is assigned to land capability class 1a, which allows only 1 percent impervious surface coverage.

DISCUSSION OF APPLICANT'S FINDINGS AND PROPOSALS

Parcel Slope

The area of slopes less than 30 percent indicated by the TRPA Review Team slope analysis is substantially smaller than that reported by representatives
of the applicant (Pezonella Associates, Inc., April 20, 1982, page 2; Skau and Miller, March 3, 1982, page 6, Item 1). The report by Pezonella Associates refers to the same contour map used for the Review Team analysis and to a level survey which the Review Team has not seen, while Skau and Miller refer to an un referenced "competent survey". As a result of the contradiction in map interpretation and lack of background information on other surveys, the TRPA Review Team can offer no logical explanation for the discrepancy in slope interpretation. The Review Team slope analysis was conducted by soil scientist John Munn. He has reviewed the analysis and believes it is correct.

Parcel Soils and Land Capability Classification

The soils on the Rocky Point subdivision area are similar to the Cagwin series, but are generally deeper than is typical for this series. This is a point of agreement between the TRPA Review Team and the applicant. However, the interpretation of this point leads to disagreement.

The soils report by Pezonella Associates, Inc. dated March 16, 1981, states that "...the lots located below Tunnel Creek Road should be changed to reflect the minimum depth of soil, 36 inches...", and they concluded that "This area should be classified as Cagwin Series and changed from [land capability class] 1a to 2". A subsequent report by Pezonella Associates dated April 20, 1982, explains that 5 hand excavated pits were sampled to depths ranging from 36 to 60 inches. They then determined that soil depth exceeded the 40 inches that is typical of the Cagwin series, and, for determining the hydrologic group, projected that soils on the site are deeper than 60 inches. This depth estimate is hard to verify from the data presented since pit logs accompanying the April 20, 1982, report show that 4 of the 5 pits were not sampled below about 4 feet.
Based on conditions of deep soil, absence of natural drainways, lack of on-site dissection, and slope steepness less than 30 percent, Skau and Miller (March 3, 1982, pages 8 and 9) contend that the parcel area just below Tunnel Creek Road (subdivision block D) is improperly classified as geomorphic unit C3 and that the land capability of this small area should be changed from class 1a to class 4.

This interpretation has three major flaws. First, referring to the enclosed slope group map (Figure 1) and the subdivision site map, it is apparent that approximately half of Block D is on slopes steeper than 30 percent. Second, there are three first order drainages that originate on the site. Third, and more important, the reference to Block D alone does not recognize the limitations of scale in the land capability system. Agency guidelines require unit sizes of 1 square mile for geomorphic unit modification and 5 acres for land capability changes. As detailed in the sections describing geomorphology and soils on the parcel, these requirements have not been met.

The use of limits such as 1 square mile and 5 acres may seem arbitrary, but there is more involved in these guidelines than the practical matters of map scale limitations and inventory or accounting convenience. Areas with small changes in topography or site characteristics are not isolated from interaction with adjoining lands on the same slope or from the associated materials and processes that have shaped the surrounding landscape.

Tunnel Creek Road

1. Roadway Compaction

The discussion of percent compaction (Pezonella Associates, April 21, 1982) and its effect on water infiltration and plant growth (Skau and Miller, March 3, 1982) needs to be placed in perspective. Percent compaction is simply
the ratio between soil density in the field and the maximum soil density obtained by a standard packing procedure. Even natural soils can have a fairly high value of "percent compaction." Based on natural soil densities published in the Tahoe Basin Soil Survey (Rogers, et al., 1974) and maximum densities listed by Pezonella Associates, the percent compaction for undisturbed Cagwin soils ranges from 64 to 74 percent. A better assessment of compaction's effect on plant growth and infiltration is obtained by comparing changes in soil porosity (volume of pores divided by total soil volume)

<table>
<thead>
<tr>
<th>Condition</th>
<th>Dry Density (pcf)</th>
<th>Relative Compaction (%)</th>
<th>Porosity (% soil pore space)</th>
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</thead>
<tbody>
<tr>
<td>Maximum compaction</td>
<td>118 to 125 1)</td>
<td>100</td>
<td>24</td>
</tr>
<tr>
<td>Traffic zone</td>
<td>106 to 119 1)</td>
<td>85 to 95</td>
<td>36 to 28</td>
</tr>
<tr>
<td>Road surface margins</td>
<td>87 to 102 1)</td>
<td>74 to 82</td>
<td>47 to 38</td>
</tr>
<tr>
<td>Cagwin soil</td>
<td>80 to 87</td>
<td>64 to 74</td>
<td>52 to 47</td>
</tr>
</tbody>
</table>

1) data from report by Pezonella Associates, April 21, 1982.

From the above table, it is clear that discussion of infiltration and plant growth restrictions on Tunnel Creek Road must be qualified by the evident spatial variability in compaction. Only the portion of the road surface that carries the majority of vehicular traffic has been severely compacted. The remaining portion of the road surface and the entire fill slope maintain an ability to infiltrate water and support protective vegetation, as demonstrated by the growth of brush in these areas.

2. Impact of Roadway Improvements

Stabilization of the cut slope on Tunnel Creek Road would certainly reduce erosion that is now carried from the roadway. Use of retaining walls and rock or gabion structures on slopes that exceed a 2:1 ratio (Skau and Miller, March 3, 1982) provides a high probability for successful stabilization. The potential
success of vegetative stabilization as proposed for slopes less than 2:1 is questionable. The problems inherent with such revegetation efforts on this site are detailed in the previous section on vegetation.

Paving the road surface would eliminate the existing infiltration capacity of this area (as discussed in the previous section on roadway compaction) and remove much of the roadway vegetation that presently helps to retard the flow of water from the road. This would both increase the volume of water flowing from the road and decrease the concentration time for these flows.

The ability of proposed infiltration trenches to dispose of the accumulated road runoff would be crucial to the site. The cohesionless Cagwin and deeper soils have high infiltration rates, but are also subject to severe gully erosion by concentrated runoff flows. Failure of the infiltration structures by piping, plugging, or inadequate capacity could cause extensive gully erosion and/or mass wasting. Therefore, maintenance, as well as design, of these structures is extremely important. Additionally, we are uncertain whether infiltration galleries can be reliably designed without extensive, detailed subsurface information. TRPA guidelines suggest mandatory inspection of dry wells during each major rainfall event and on a continual basis over the period of snowmelt runoff. If the area were dominated by second homes, such vigilance would seem to be difficult or unlikely.

Work of the Tahoe Research Group (Coats, 1975; Leonard, et al., 1979) indicates that removal of vegetation and physical disturbance both accelerates release of nitrogen from soil and litter and decreases the nutrient stripping capacity of the soil-vegetation system. The nutrient stripping ability of the coarse-textured Cagwin soil is concentrated in the undisturbed litter and the surface soil horizons. The use of trenches to transfer road runoff directly to
the subsoil will bypass infiltration through the soil surface and, therefore, reduce the removal of dissolved nutrients from the runoff.

The rehabilitation of Tunnel Creek Road through the Ponderosa Ranch (segment TPX to 3+64) as described by Skau and Miller (March 3, 1982) is unquestionably desirable for water quality improvement and soil erosion control purposes. It should be noted, however, that this road segment is entirely outside the boundary of the Rocky Point subdivision. Both the Review Team and the report by Skau and Miller (page 6) recognize that the present vegetative cover on the Rocky Point parcel prevents off-site transport of road related sediment from the subdivision area.

Residential Roof Runoff

The splash screen system for dissipating the energy of dispersed roof runoff that is described by Skau and Miller (March 3, 1982, page 17) would have to be designed to withstand snow loading, particularly if it became plugged with litter.

CONCLUSIONS

1. The geomorphic unit C3 presently mapped in the Rocky Point area is correct. Therefore, this area should remain in geomorphic Group I, high hazard lands.

2. The soil map unit in the vicinity of the Rocky Point subdivision should be changed from Rock outcrop-Toem complex, 30 to 50 percent slopes (map symbol RtF) to Cagwin-Rock outcrop complex, 30 to 50 percent slopes (map symbol CaF).

3. The correct land capability class of the Rocky Point parcel is 1a.
4. The portion of Rocky Point subdivision occupied by Tunnel Creek Road has obviously been man-modified, but consideration should be given to the following factors:

a. The road segment located on the parcel is not creating any off-site impacts at the present time.

b. Vegetative stabilization of the existing road surface and barren portions of the fill slope could be accomplished by cultivation of bare areas and planting with adapted grasses.

c. Paving Tunnel Creek Road would increase road runoff volume and decrease the concentration time of these flows.

d. Failure of infiltration trenches receiving concentrated road runoff flows could result in large volumes of gully erosion. These drainage structures would require careful design and regular maintenance.

e. Improvement of the Tunnel Creek Road segment through Ponderosa Ranch as part of the Rocky Point subdivision development would result in water quality improvement and sediment reduction for waters entering Lake Tahoe from this point. However, this road segment is not on the parcel area, and other alternatives for financing rehabilitation work may be available.
REFERENCES


Rocky Point Subdivision

Slope Group Map

Scale: 1" = 40' 0' 40' 80' 120'

Slopes > 30%

Slopes < 30%

Slopes > 30%

6/29
McFarland Professional Building, 800 Southwood Boulevard
Washoe County, APN 122-222-43 - 46, TRPA File #82736

Applicant: Jeffery A. Lundahl

Project Description: The applicant proposes to construct an office complex consisting of two 2-story structures and parking for 54 vehicles. The footprint of each structure dimensions 96 feet by 36 feet. Each structure will contain 6,750 square feet of net rentable floor space, for a total of 13,500 square feet on the site. Access to the site will be from Southwood Boulevard by way of a single 2-way driveway. The driveway will be located directly across from the point where Mays Boulevard intersects Southwood Boulevard.

Project Location: The proposed project is located north of Southwood Boulevard opposite the intersection of Southwood Boulevard and Mays Boulevard. The subject property is generally within the high density core area of Incline Village.

Site Description: The site slopes gently up from Southwood Boulevard at approximately 6%. There is an existing cut slope along Southwood Boulevard. The cut slope is unstable and is approximately 3 feet in height. At the toe of the cut slope there is an eroding, unimproved drainage channel. Upper story vegetation consists of a fairly sparse stand of medium-sized pines. Lower story vegetation consists of a dense cover of mature manzanita. There are no stream environment zones on or adjacent to the project site.

Review Per Section: Section VI(b) of the Compact

Land Use District: High Density Residential (HDR). The proposed office complex is a permitted use in the HDR use district.

Land Capability Classification: Level 6 (IsC, Invilles Stony coarse sandy loam, 9 to 15% slopes), permitted land coverage is 30%

Land Coverage:

<table>
<thead>
<tr>
<th>Description</th>
<th>coverage (sq. ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>76,230</td>
</tr>
<tr>
<td>Allowable Coverage</td>
<td>22,869</td>
</tr>
<tr>
<td>Proposed Coverage</td>
<td>Buildings 7,300</td>
</tr>
<tr>
<td></td>
<td>Decks &amp; Walks 1,308</td>
</tr>
<tr>
<td></td>
<td>Drives &amp; Parking 14,258</td>
</tr>
<tr>
<td></td>
<td>Total 22,866</td>
</tr>
</tbody>
</table>

Building Height: Permitted: 35 feet Proposed: 33 feet

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Agenda Item VI A. 3.
Impact Analysis and Mitigation Measures:

Traffic and Air Quality - The subject project will generate approximately 338 new vehicle trips per day. During the peak hour, the project will generate between 25 and 28 vehicle trips. Trips generated by the project will affect the intersections of Southwood and State Route 28 and Village Boulevard and State Route 28. The greatest impact will be on the intersection of Southwood Boulevard and State Route 28, where the project will generate 15 trips per day making left turns from Southwood Boulevard to State Route 28 and 16 trips per day making right turns from State Route 28 to Southwood Boulevard. The projected impacts on the affected roadways and intersections will be insignificant in view of the present service levels in the area.

Based on the determination by the Governing Board to accept mitigation fees to mitigate 150% of the increased carbon monoxide (CO) emissions, the applicant proposes to pay a fee of $6,774 as calculated by the following formula:

\[(21,504 \text{ grams CO per day} \times 150\% \times \$0.21 \text{ per gram CO per day})\]

The mitigation fees will be applied to future improvements to the intersections affected by the project. The applicant proposes to pay the fee in lieu of having an EIS prepared.

Visual - The project site plan as designed proposes to locate the required parking lot across the entire property frontage with no setback from Southwood Boulevard. The two buildings are located adjacent to the parking lot. With the parking lot located with no setback, there is no provision for vegetative screening of the parking lot from the public right-of-way and a small portion of infiltration trench for the parking lot is within the county right-of-way.

It does not appear, from the rectangular design of the parking lot and buildings, that adequate consideration has been given to the preservation of the natural site characteristics - especially trees. The site plan could be redesigned to provide an area on the site for vegetative screening of the parking lot from the public right-of-way and to preserve more existing trees in the parking area. The parking lot should be located along the sides of the buildings, instead of in front, to avoid having the property frontage dominated by asphalt parking lot. A schematic plan showing a better site design and one that provides pedestrian access from the public right-of-way is included as Attachment A.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional
agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada Side General Plan</td>
<td>Consistent</td>
</tr>
<tr>
<td>Nevada Side Land Use Ordinance</td>
<td>Consistent</td>
</tr>
<tr>
<td>TRPA 208 Water Quality Plan</td>
<td>Consistent</td>
</tr>
<tr>
<td>Nevada Side Indirect Source Review</td>
<td>Consistent</td>
</tr>
<tr>
<td>Federal/State Air Quality Standards</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

**Project Analysis and Issues for Discussion:**

Are there site design alternatives which: 1) provide better spatial separation and screening of the proposed buildings and parking lot from the public right-of-way; 2) preserve more trees; and 3) provide for pedestrian access from the public right-of-way.

**Required Actions and Findings:**

1. Findings listed on Attachment A.
2. Standard conditions of approval (Attachment D).
3. The applicant shall contribute $6,774 to the Nevada Side Traffic and Air Quality Mitigation Fund.
4. The applicant shall contribute $4,573 to the Agency 208 Plan water quality mitigation fund.

10/14/82

Agenda Item VI A. 3.
Joint use of parking and combing access where possible.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Yountchi/Lundahl, Retail Commercial and Office Building, 288 Village Boulevard,
Washoe County, APN 122-282-25, TRPA File #81-1208

Applicant: Zein Yountchi/Jeff Lundahl

Project Description: The applicant is requesting approval to construct a 2 story
5,760 square foot commercial building containing 1,600 square feet of retail
space and 3,498 square feet of office space. The total commercial square footage
proposed is 5,098 square feet. Seventeen parking spaces are proposed. All of
the parking and the building coverage is to be located immediately adjacent to
Village Boulevard with the required open space in the rear portion of the site.

Project Location: The project site is located within the core area of Incline
Village on Village Boulevard, a half block south of the intersection with State
Highway 28.

Site Description: The site slopes south at approximately 8%. There are no
stream environment zones present on the site. The vegetative cover consists of
33 pine and fir trees and manzanita.

Land Use District: General Commercial (GC)

Land Capability Classification: Soil Type: IsC, land capability level 6,
allowable land coverage 30%.

Land Coverage:
Lot Size: 27,253 sq. ft.
Permitted Coverage: 8,176 sq. ft. (30%)
Proposed Coverage: 8,174 sq. ft. (30%)

Building Height: Proposed: 40'   Permitted: 40'

Impact Analysis and Mitigation Measures:

Traffic and Air Quality: The proposed project will generate an additional 168
vehicle trips per day. The critical intersection that will be impacted by the
project is the intersection of State Route 28 and Village Boulevard. During the
weekend peak hour (worst case) approximately three additional vehicles will
utilize this intersection. The projected impacts on the intersection and
adjacent roadway segments will be insignificant in view of existing capacities
and volumes. The traffic and air quality analysis indicates that the average
level of traffic during non-critical periods will increase but will not reduce
existing levels of service on either Village Boulevard or State Route 28. Based

10-8-82
JPD:md
AGENDA ITEM VI A. 4.
Yountchi/Lundahl
Page 2

upon the determination of the Governing Board to accept mitigation fees to mitigate 150% of the increased carbon monoxide (CO) emissions, the applicant proposes to pay a fee of $3,861 as calculated by the following formula:

\[(12,257 \text{ grams CO per day} \times 150\% \times \$.21 \text{ per gram CO per day})\]

The mitigation fees will be applied to future improvements at the Village Boulevard and State Route 28 intersection. The applicant proposes to pay the fee in lieu of having an EIS prepared.

Visual: The project proposes placing all improvements along the property line fronting on Village Boulevard. Washoe County staff has advised the Agency that the required setback for this site is 50 feet from the center line of Village Boulevard. The portion of the building located closest to Village Boulevard is exactly 50 feet from the centerline and only 3 feet from the property line.

The proposed parking lot is located with no setback from the property line and is 48 feet from the center line on Village Boulevard. County setback requirements are not applied to parking lots as long as all improvements are located within the property lines of the site. The proposed building which is 40 feet high dimensions 40 feet along Village Boulevard. There is only one 40" diameter pine tree being saved between the front property line and the proposed building. The location of the parking lot and building so close to the property line does not allow placement of additional vegetative screening between the improvements and the public right-of-way. Washoe County has no objection to the placement of additional vegetation within the county right-of-way but has advised Agency staff that continued maintenance is the responsibility of the applicant and that the vegetation may be removed in the future by the county if necessary to provide space for additional county road improvements.

The design and location of the building and parking lot results in the removal of eight large pine trees (two 36" pines, three 24" pines, a 26" fir, and a 28" fir). Only five of the 13 trees over 6" dbh located in the front half of the property are being saved. The site plan could be redesigned to preserve more existing trees in the parking area and to provide an area on the site for vegetative screening of the parking area from the public right-of-way. A schematic plan showing a parking lot designed to preserve existing trees and one that provides pedestrian access from the public right-of-way is included as Attachment A.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable
plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

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<tr>
<td>Federal/State Air Quality Standards</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

**Project Analysis and Issues for Discussion:**

Are there other site design alternatives which: 1) provide better spatial separation and screening of the proposed building and parking lot from the public right-of-way; 2) preserves more trees on the site; and 3) provides for pedestrian access from the public right-of-way.

**Required Actions and Findings:**

1. Findings listed on Attachment A.
2. Standard Conditions of Approval listed on Attachment D.
3. The applicant shall contribute $3,861 to the Nevada Side Traffic and Air Quality Mitigation Fund.
4. The applicant shall contribute $1,635 to the Agency 208 Plan water quality mitigation fund.
2a
Joint use of parking and combined access where possible.
W. Belleville, Single Family Dwelling With 1980 Permit Status and Local Public Road Finding,
Level 1A, Hubbard Road, Douglas County,
APN 08-332-02, TRPA File #82330

Applicant: Walter Belleville/Paul Palant

Project Description: The applicant requests approval for a 2-story single family dwelling with a detached 2-story garage. The second story of the garage is to be a guest house. This application requires a finding that a guest house is a similar and appropriate use in the General Forest use district and the findings for a local public road.

Site Description: The subject parcel is approximately 8 acres in size. There are some areas of rock outcrop. Hubbard Road, which is unpaved, runs through the parcel. The principal building site has slopes of less than 30%. There are utility trenches dug from Hubbard Road to the principal building site.

Project History: The applicant applied for and received a building permit on October 4, 1979. Douglas County has made a finding that this building permit was valid until May 1, 1981. A County stop work order was placed on the project on April 16, 1981. This action put a hold on the project; the permit technically never expired according to the Douglas County District Attorney.

In October of 1981, Agency staff issued a clean up and abate order at which time there was no record of a permit on the property. In December of 1981, the Agency received notification that Douglas County was issuing an administrative permit for a local public road. This was not reviewed or approved by the Agency. The original 1979 building permit was issued by Douglas County without Agency review and approval of an administrative permit for a local public road and was therefore in violation of the land coverage restriction set forth in the TRPA Land Use Ordinance. The 1979 permit was also in violation of Agency regulations in that a guest house was authorized without first having an administrative permit issued by Douglas County and approved by the Agency as required by the Nevada Side Land Use Ordinance. Third, the parcel contains a stream environment zone (SEZ). Although the parcel is large and Mr. Belleville does not intend to infringe upon the SEZ, construction on a lot containing an SEZ requires issuance by Douglas County of an administrative permit and approval of that permit by TRPA. In summary, three TRPA permits were required but were not approved by the Agency prior to the original building permit being issued by Douglas County in 1979.

To resolve this matter, Douglas County has found that the applicant was actively pursuing his building permit in 1980 and it therefore qualifies for 1980 status.

Land Use District: General Forest

Land Capability Classification: Level 1A, CaF Soil Type

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Agenda Item VI B.
W. Belleville Dwelling & Local Road Finding

Local Public Road Finding - Administrative Permit for Additional Land Coverage:
Because this project is being processed as a 1980 status, the Agency may make a
finding for a local public road and allow additional coverage on the site. The
parcel contains Hubbard Road which provides access to a number of properties
other than that owned by the applicant. The unimproved road has existed for a
number of years. Mr. Belleville has agreed to pave the road and install erosion
control and drainage improvements to bring it up to current 208 Plan standards.
Since this project is in General Forest, additional land coverage equal to 100%
of the total land coverage created by the road can be granted provided the road
does not exceed 20 feet in width.

Finding of Similar and Appropriate Use for a Guest House: A guest house is not
listed as a permitted use in General Forest. A guest house can be allowed,
however, if the Board wishes to make a finding that it is similar and
appropriate in nature. Staff feels that in this instance a guest house would be
appropriate. The parcel is large - approximately 8 acres in size. The majority
of the parcels in this area are fairly large - at least 3/4 of an acre. The
general character of the parcel and area, therefore, is similar to a Rural
Estates district. A guest house is an allowed use in Rural Estates.

Land Coverage: Total Lot Size: 8 acres
               Allowable Coverage: 4,000 sq. ft. (Sec. 9.24 of the Land
               Use Ordinance)
               Proposed Coverage: 3,427 sq. ft.

Impact Analysis and Mitigation Measures: The applicant is eligible for 1960
building status (as determined by Douglas County) and received sewer and water
permits prior to 1980. This qualifies the project for exemption from the 208
regulatory ordinance No. 81-5 under Section 20.32, which reads as follows:

The single family house is within, or is to be built within, the portion of
the Region located within the State of Nevada, and the applicant for permits
pertaining thereto received both of the following: (a) Sewer and water
permits, receipt of which occurred prior to December 19, 1980; and (b) An
allocation for a building permit with the limitations imposed for calendar
year 1980 pursuant to Article VI(c) of the Compact.

The proposed project is not exempt from the TRPA Compact which requires an EIS be
prepared for projects that exceed land capability constraints; however, the EIS
for the 208 Plan amendments was programmatically applied to single family
dwellings with 1980 status.

The utility trenches have been dug and lines placed. The building site is
fairly flat and does not contain rock outcrop. The original plans propose a
guest house on the opposite side of Hubbard Road. This area is undisturbed and
is rocky in nature. The applicant has agreed to place the guest house above the
garage so that no additional disturbance is required.

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Agenda Item VI B.
The applicant shall be required to provide a drainage and slope stabilization plan for the dwelling. Mr. Belleville has also agreed to improve Hubbard Road. Agency staff feels that the work proposed as a part of this project will result in a net benefit to water quality.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada Side General Plan</td>
<td>Consistent</td>
</tr>
<tr>
<td>Federal Nondegradation Policy</td>
<td>Inconsistent*</td>
</tr>
<tr>
<td>Federal/State Air Quality Standards</td>
<td>Consistent</td>
</tr>
<tr>
<td>Federal/State Water Quality Standards</td>
<td>Inconsistent*</td>
</tr>
</tbody>
</table>

* The above-stated elements documented as inconsistent are as such because the project does not meet the land capability requirements. This class of project was considered to be exempt from these standards, however, and has been included in the EIS prepared for the 208 Water Quality Plan.

Project Analysis and Issues for Discussion: The Agency staff can identify no major issues for discussion. To insure that impacts are mitigated to the extent possible, Agency staff recommends the following conditions of approval.

1. The plans shall be amended to place the guest house over the garage.

2. The applicant shall provide, and Agency staff shall approve, a drainage and slope stabilization plan for the dwelling.

3. Hubbard Road shall be paved and improved. These improvements shall include stabilization of cut and fill slopes and infiltration of road runoff. Plans for these improvements shall be submitted and approved by Agency staff prior to TRPA permit issuance. These plans shall be in compliance with the standards contained in the 208 Plan

Required Actions and Findings: Based upon the identified impacts, Agency staff recommends the following:

1. Actions and findings listed on Attachment H.

2. Standard conditions of approval (Attachment D).

3. The special conditions of approval listed herein.

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Agenda Item VI B.
4. The following findings must be made to issue an administrative permit for additional coverage due to a local public road:

The excess land coverage exists or is to be created in connection with the construction or improvement of a local road which construction or improvement: (a) is required to provide access to property other than that owned by the applicant; (b) will be constructed or maintained by a public agency or is required to be so constructed or improved by the terms of a lawfully created easement recorded prior to February 10, 1972; (c) the road is designed to minimize land alteration and prevent erosion; and (d) the road as so constructed or improved will be sited in such a manner as to minimize the additional coverage.

5. The following findings must be made to issue an administrative permit for the proposed guest house:

The establishment, maintenance, or operation of the use or purpose in the particular case is not detrimental to health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the Region, and will not cause any substantial harmful environmental consequences on the land of the applicant or on other lands or waters.

10/13/82 Agenda Item VI B.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Interpretation of Section 9.13
Nevada Side Land Use Ordinance

Summary

Section 9.13 of the Nevada Side Land Use Ordinance reads as follows:

Single Family Houses on Pre-Existing Lots and Parcels

One (1) single family house may be constructed on any existing legal lot or parcel of record as of February 10, 1972 that is located in any district except Tourist Commercial or General Commercial, provided, however, that this section shall not apply to lots in residential subdivisions where the final map of such subdivision was approved and filed for record more than five (5) years prior to February 10, 1972 and there has been no construction of roads, sewers, or other substantial facilities serving the subdivision, or the posting of performance bonds assuring such construction, prior to February 10, 1972.

In the past, the Agency has interpreted this section to mean that if the subdivision in question does not meet the tests of either substantial facilities or posting of performance bonds, a single family dwelling is not a permitted use on the lots contained in the subdivision - regardless of individual ownership patterns within the subdivision as of February 10, 1972. The uses permitted on the land contained in the subdivision would be the other uses permitted in the General Forest or Recreation use district.

At the July, 1982 Governing Board meeting, Board member Richard Heikka (former TRPA Executive Director) suggested that it was the intent of the original drafters of the Land Use Ordinance and the Governing Board that adopted it to recognize one single family dwelling as a permitted use on parcels of record, as defined in the Land Use Ordinance, within a subdivision recorded more than five years prior to February 10, 1972 that fail the tests of substantial facilities or posting of performance bonds. This interpretation means that a single family dwelling would be a permitted use on a parcel of land described in a deed recorded as of February 10, 1972, even if such land is within a subdivision that does not meet the tests set forth under Section 9.13.

The definition of parcel in the Land Use Ordinance is "an area of contiguous land owned by a person". Therefore, under Mr. Heikka's interpretation, if a person owned two or more contiguous assessor parcels or lots, only one single family dwelling would be recognized as a permitted use on the land area which was described in deeds recorded as of February 10, 1972. Mr. Heikka contends that the intent was to not recognize each lot in a "paper subdivision" as a building site but to recognize areas of individual ownership that were in existence when the Land Use Ordinance was adopted as building sites.

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Agenda Item VII A.
Section 9.13 Interpretation
page two

This interpretation, if applied to the Rocky Point Subdivision, would mean that one single family dwelling would be a permitted use on each area of contiguous land owned by a person and described in a deed recorded prior to February 10, 1972, without the Agency having to find that substantial facilities had been constructed prior to February 10, 1972 to serve the subdivision. If, for example, an entire block of this subdivision were owned by one person and described in a deed recorded prior to February 10, 1972, this contiguous land area would be permitted one single family dwelling.

Agency staff will present a recommendation regarding this matter at the September Governing Board meeting.
Determination of Status Under Section 9.13,
Nevada Side Land Use Ordinance
Gary Sheerin, Rocky Point Subdivision
Blk C, Lots 1-4, APN 055-345-01, Washoe County
TRPA File #81-1148

Request: The applicant, Gary A. Sheerin, is requesting that the Governing Board make the findings required under Section 9.13 of the Nevada Side Land Use Ordinance to recognize one single family dwelling as a permitted use on Lots 1-4, Block C of the Rocky Point Subdivision. This request was heard by the Governing Board in October, 1981. At that time, the Board failed to make the findings required to allow a residential use on the subject lots. However, the applicant asked if the matter could be reheard at a later date before a complete board. The Chairman indicated that the matter could be reheard.

Location: The Rocky Point Subdivision is located adjacent to State Highway 28 approximately 1/2 mile south of the Ponderosa Ranch (see Attachment A). The four subject lots are located above Tunnel Creek Road.

Land Use and Land Capability: The Rocky Point Subdivision is classified General Forest. The soils within the subdivision are identified as RKF, rock outcrop-Toem complex, 30 to 50% slopes. The land capability district is 1a permitting 1% land coverage. The property is in a high hazard geomorphic unit.

Subdivision History: The Rocky Point Subdivision was originally subdivided in 1908. In 1933, an amended map was filed for the purpose of deleting two streets, consolidating some lots and incorporating State Highway 28 as Second Street. Tunnel Creek Road corresponds to Fifth Street in the subdivision. In 1980, the owner of the Ponderosa Ranch barricaded Tunnel Creek Road restricting access to adjacent property owned by Paul Richards. Mr. Richards sued to regain access and prevailed in a court decision rendered by the Nevada Supreme Court in May of 1980 (see Attachment C). This court decision found that Tunnel Creek Road has been in existence since at least 1880, 28 years prior to the creation of the Rocky Point Subdivision.

In April, 1981, the TRPA Governing Board made the findings required under Section 9.13 of the Nevada Side Land Use Ordinance to recognize one single family dwelling as a permitted use on the 32 lots in Blocks D, E, F, and G of the Rocky Point Subdivision. These lots are all located below Tunnel Creek Road. The Governing Board did establish, however, that any proposed improvements to service the lots or proposed single family dwellings would be subject to TRPA permit requirements in effect at the time the applications are submitted.

Required Findings: Section 9.13 of the TRPA Land Use Ordinance reads as follows:

"One (1) single family house may be constructed on any existing legal lot or parcel of record as of February 10, 1972 that is located in any district except Tourist Commercial or General Commercial, provided, however, that

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AGENDA ITEM VII B,
this section shall not apply to lots in residential subdivisions where the final map of such subdivision was approved and filed for record more than five (5) years prior to February 10, 1972 and there has been no construction of roads, sewers, or other substantial facilities serving the subdivision, or the posting of performance bonds assuring such construction, prior to February 10, 1972."

Since the Rocky Point Subdivision was recorded more than five years prior to February 10, 1972 and there has been no performance bonds posted to assure completion of subdivision improvements, the Governing Board must find that prior to February 10, 1972, there had been the construction of roads, sewers or other substantial facilities serving Lots 1 through 4 in Block C.

Subdivision Improvements:

Residential Development - There are 11 existing single family dwellings on the lots located adjacent to State Highway 28. All the remaining lots in the subdivision are vacant.

Roadway Improvements - The only improved roadway that presently provides access to any of the lots in the subdivision is State Highway 28. The highway provides access to the 16 lots that front the highway. The applicant has not provided evidence substantiating that Tunnel Creek Road was constructed in conjunction with planned subdivision improvements for the Rocky Point Subdivision. In fact, evidence indicates that Tunnel Creek Road was not constructed in conjunction with subdivision improvement plans since the road existed in 1880, 28 years prior to creation of the subdivision. Presently the travelway portion of Tunnel Creek Road is an average width of 12 feet. In a number of areas, the travelway is only 8 to 9 feet wide. The width of the bench over which the roadway traverses is 20 feet or wider, for the most part, although one portion is only approximately 18 feet in width.

Since the original construction of Tunnel Creek Road, substantial portions of the travelway and bench area of the road and adjacent cut and fill slopes have naturally revegetated (see Attachment D). Lower level vegetation also exists in the center portion of the travelway and mature manzanita shrubbery is present on portions of the bench area. Mature manzanita shrubbery also exists on the lower portions of many of the adjacent cut slopes. Most of the adjacent fill slopes also contain mature manzanita shrubbery.

Sewage Treatment - The only lots that have been annexed into the Incline Village General Improvement District (IVGID) are those lots fronting State Highway 28. The other lots in the subdivision are not in IVGID's service area.

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AGENDA ITEM VII B.
Domestic Water - In a letter received by TRPA from IVGID, the District indicates that it cannot provide domestic drinking water to the Rocky Point Subdivision. The application indicates that domestic water will be furnished by individual wells. The installation of a well is a "project" as defined under the TRPA Compact. In order to approve such a project, the cumulative impacts resulting from individual well construction would have to be found to be insignificant. The applicant has not documented any water rights associated with the project.

Electricity - There are electrical power lines running along State Highway 28 that provide electrical connections to the 11 existing residences fronting the highway. No extensions from the existing power line have been made to accommodate residential development elsewhere in the subdivision.

Natural Gas - There is an existing 8" diameter natural gas line in Tunnel Creek Road. According to Charles Smith, District Manager for Southwest Gas Company, this line is the major transmission line that extends from the Idaho border to Northern California. Locally, the line follows Tunnel Creek Road from Washoe Valley through Incline Village to Tahoma, then over the Sierra Range. The line is maintained at high pressure (300 psi); therefore, connections can only be made through a major distribution station. Mr. Smith indicated that, without special authorization from the Federal Energy Commission in Washington, D.C., provision of natural gas to the Rocky Point Subdivision would have to be made through the closest existing distribution station. The closest distribution station is located in Incline Village. Since the improvement plans approved by Washoe County for Tunnel Creek Road do not include a natural gas line or show the existing gas transmission line, it must be assumed that the Rocky Point Subdivision will not be supplied with natural gas.

Required Agency Approvals for Proposed Improvements: The subdivision map for the Rocky Point Subdivision does not include plans for required improvements such as roads and water and sewer facilities. Therefore, an administrative permit is required for such improvements pursuant to Section 7.12 of the TRPA Land Use Ordinance and Article VI(b) of the Compact, as amended.

Agency action on an application for such a permit must be consistent with the regulations prescribed in Ordinance 81-5, the implementing ordinance for the 208 Water Quality Plan. Section 12.00 of that ordinance prohibits any grading, clearing, removal of vegetation, filling or creation of and coverage upon land within land capability districts 1a, 1c, 2 and 3, except for: 1) the construction of a single family dwelling unit approved by the Agency under the case-by-case review procedure; 2) on lands within subdivisions approved by the Agency after February 10, 1972 in accordance with the Agency's land capability district regulations; 3) the construction of a public works project by a public agency; or 4) on lands which the Agency finds to be man-modified as set forth under Section 8.29 of the Land Use Ordinance.

It is the opinion of Agency staff that the proposed road improvements to the Rocky Point Subdivision cannot be constructed without grading, clearing and the

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Gary Sheerin, Rocky Point Subdivision
Determination of Status
page four

removal of vegetation upon land within land capability districts 1a, 12c, 2 or 3. Furthermore, the proposed road improvements do not fall under any of the exempt sections of Ordinance 81-5. Therefore, it is Agency staff's opinion that the proposed road improvements to the Rocky Point Subdivision cannot be considered by the Agency under the provisions of Ordinance 81-5 until adoption by the Agency of amendments to the regional plan pursuant to Article VI(c) of the Compact.

Applications for single family dwellings on the four subject lots would be subject to the regulations prescribed under the Agency's case-by-case review procedure as set forth under Section 12.00 of TRPA Ordinance 81-5.

Based on the current status of subdivision improvements, the upper portion of the Rocky Point Subdivision has been classified as "in need of further consideration", in accordance with the procedures set forth under Section 12.00 of Ordinance 81-5. This classification means that the lots in the Rocky Point Subdivision are not eligible for the Agency's case-by-case review procedure.

Agency staff has applied the Agency's case-by-case lot review criteria to the lots with access from Tunnel Creek Road. The slopes of the lots range from 26 to 34%. Based on this slope range, most of the lots would be rated as "high risk" relative to land stability. Access to the uphill lots would be difficult due to the steepness of adjacent road cuts.

According to the SCS Survey, the identified soil type of RtP has a very high erosion hazard and severe ratings relative to seedling mortality, insects and diseases, road location, excavation and dwelling construction.

The Rocky Point Subdivision is also located on land classified as a high hazard geomorphic unit. The geomorphic classification of C3 ("steep strongly dissected lands") indicates that bedrock is massive granite overlain by grus or decomposed granite. Soils are shallow and are underlain by almost impermeable bedrock. Being coarse in texture and poorly bonded, these soils are easily eroded. The low water-holding capacity and natural infertility of the soil, with a short, dry growing season, make revegetation extremely difficult.

These general site characteristics, which have been field verified, in conjunction with the small lot sizes of 5,000 square feet (50' x 100') would result in high risk ratings relative to runoff potential and vegetation. The amount of land coverage permitted on each lot (1,000 square feet) also does not satisfy the general design criteria established for case-by-case review.

Agency Staff Findings: Based on the evidence in this staff summary, Agency staff cannot find, as required under Section 9.13 of the Land Use Ordinance, that roads, sewers and other substantial facilities were constructed prior to February 10, 1972 that serve the four subject lots.
IN THE SUPREME COURT OF THE
STATE OF NEVADA

WILLIAM A. ANDERSON, PONDEROSA RANCH, AND
PONDEROSA RANCH, INC., APPELLANTS, V. PAUL A.
RICHARDS, RESPONDENT

No. 10025

March 28, 1980

Appeal from a judgment, Second Judicial District Court,
Washoe County; John W. Barrett, Judge.
Affirmed.

Laxalt & Berre, Carson City, for Appellants.

Paul A. Richards, Reno, for Respondent.

OPINION

By the Court, Baxter, J.:

Immediately prior to April 9, 1970, appellants placed gates
and obstructions across Tunnel Creek Road, the roadway
which had been the customary access to the respondent's prop-
erty. On April 9, 1970, respondent Paul A. Richards filed suit
seeking the removal of the obstructions and alleging that he
should have a right-of-way across appellants' property using
that roadway.

On May 20, 1970, the district court denied Richards' request
for a preliminary injunction and the case was tried, without a
jury, on May 10, 1971. Additional evidence was taken on
March 31, 1972. Judgment for respondent was entered on Sep-
tember 27, 1976, and appellants' motion for a new trial was
denied on July 19, 1977. This appeal followed.

Tunnel Creek Road is a dirt road which begins at Nevada
State Highway 28 near Incline Village, Nevada, runs south par-
alleling that state highway for approximately one mile, then
turns due east. Richards claims that the other terminus of the
road exits in Washoe Valley, Nevada, near the Cliff Ranch.
Appellants own the land adjacent to, and directly north of, the
Richards' property. Richards uses the Tunnel Creek Road
across appellants' land for ingress and egress from his prop-
erty.

The district judge found that the road, which has been in

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ATTACHMENT DEC 9 - 1981
existence since "at least" 1880; was originally constructed
over public domain; and is a public road from Richards' south
property line to Nevada State Highway 28. He based his de-
cision upon the ground that Richards and his predecessors in
interest had adversely and continuously used the road, with-
out the permission of appellants or their predecessors in interest,
for more than the prescriptive period. He concluded that any
obstructions prior to the time appellants blocked the road were
for fire protection in accordance with NRS 475.210. The trial
court made no finding on the status of that portion of Tunnel
Creek Road beyond Richards' property to the south and east,
because that issue was not directly before it.

During the course of the trial, numerous witnesses testified.
Although there was conflict in their testimony regarding the
extent of the use made of the roadway in controversy, nearly
every map introduced by the parties showed a roadway from
Nevada State Highway 28 to the south boundary of Richards'
property and beyond.

The record leaves no doubt that there existed a road or trail
from early pioneer days, first known as "the trail to Carson".

"The district court found that Tunnel Creek Road had been in existence
since at least 1880 and had been . . . used consistently, continuously, under a
claim of right to use the land as a highway to the exclusion of any individual
right of the owner; inconsistent therewith, by the public without permission for
at least the statutory period;" and that the road had been used "for personal,
governmental, recreational and business" purposes, including access to the
Rocky Point subdivision.

Richards' exhibit "R," Patent No. 24 from the United States to C. P.
Railroad Co. dated the 5th day of December, 1876, by the President, U. S.
Grant, by D. D. Corne, Secretary, S. W. Clark, Recorder of the General Land
Office, recorded in Volume 6, pages 255 to 261, inclusive, recorded at the
request of D. E. Haskell, filed February 8, A. D. 1878, John B. Williams,
Registrar, and recorded on the 15th day of May, 1890, Arlo Brown,
County Recorder, Washoe County, Nevada, by Allan C. Johnson, Deputy,
indicates the beginning of private ownership of some of the lands traversed by
the Tunnel Creek Road.

NRS 475.210:

1. Whenever the governor finds that conditions of extreme fire hazard
exist, either in or out of the fire hazard season, he may by proclamation close
or partially close such land or areas as he may find to be in such condition of
extreme hazard to the general public and prohibit or limit hunting and other
activities thereto to a degree and in such ways as he deems necessary to reduce
the danger of forest and other wildland fires.

2. The governor shall declare the end of any such emergency only upon a
finding that the conditions of extreme fire hazard no longer exist.

"The early maps in evidence referred to the entire roadway along the north
shore of Lake Tahoe (Lake High) as a "trail" and to that portion of the
roadway from what is now Nevada State Highway 28 to the southern edge of
Richards' property and beyond as the "trail to Carson." It was not unusual in
that era to refer to roadways as trails. As an example, "Oregon Trail, an em-
igrant route to the Oregon Country . . ." Webster's New International Diction-
ary, 1973 (2nd ed. unabridged 1981).}
MEMORANDUM

September 9, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Wm. Taylor, Rocky Point Subdivision, Block C, Lots 6 and 7, Washoe County, APN 55-345-03 and -04, TRPA File #82530, Status Under Section 9.13, Nevada Side Land Use Ordinance

The subject application is identical to agenda item VII B. (Gary Sheerin, Status Under Section 9.13, Nevada Side Land Use Ordinance) except that the subject request is for Lots 6 and 7 of Block C. Please refer to Attachment B of the Sheerin summary for the location of Lots 6 and 7, Block C. The staff analysis and recommendation for the subject application are the same as for the Sheerin application.

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Agenda Item VII C.
MEMORANDUM

October 15, 1982

To: The TRPA Governing Board
From: The Staff

Subject: Special Determination Regarding Status of the Loop Road Under the Compact

Background

At the September, 1982 meeting, the Governing Board directed staff and legal counsel to evaluate the City of South Lake Tahoe's request to determine the status of the Loop Road under the provisions of Article VI(c) which temporarily prohibits the construction or widening of highways to accommodate additional continuous lanes for automobiles until the regional transportation plan is adopted. Under separate cover, Agency legal counsel is providing an opinion regarding the status of the Loop Road under the Compact. The purpose of this memo is to address the options available to the Governing Board as a result of the City's request.

Project Description

As shown in the attachments, the City proposes to extend Montreal Road a distance of approximately 440 feet to connect with the Upper Loop Road at the California-Nevada state line. The purpose of the project is to provide an alternative access and improve local traffic circulation.

Criteria for Evaluation

In evaluating two previous requests of this nature, the Agency staff utilized the direction provided by the Compact to develop the following criteria for construction of roadway improvements which would:

1. Make commitments that would remove long range planning options before adoption of the Transportation Plan;

2. Significantly increase the capacity of the transportation system in conflict with the Compact directive to give preference to public transportation; or

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Agenda Item VII D.
3. Increase dependency on automobiles or increase air pollution from automobiles.

Analysis

The City has released a Draft Environmental Impact Report (EIR) to address the impacts of the Loop Road extension pursuant to CEQA. Although this document has not been certified, staff has utilized portions of the analysis provided by the City's consultant in addressing these questions.

Long Range Planning Options - Construction of the Loop Road extension in itself would not remove the long-range planning options which TRPA must address in its Transportation Plan. Utilization of a light rail system and transit terminal in the Kingsbury Grade area would not be significantly affected by the project. Other transportation alternatives such as a transit/pedestrian mall along Highway 50, other transit systems, highway system improvements, or a highway bypass would not be precluded by the proposed project. However, the effectiveness of these alternatives would be highly dependent on the precise details of the proposal including traffic signing, traffic signalization and connections with traffic circulation systems on Highway 50 and Pioneer Trail.

Completion of the Loop Road is a specific item which must be addressed in the Regional Plan pursuant to the Compact. Until such time, the Agency has no effective Transportation Element. Further, the Compact specifies that the Agency must find that a project is consistent with its Regional Plan prior to approval of a project. For analysis of the legal issues raised regarding the Loop Road and long range planning options, refer to Gary Owen's memo (under separate cover).

Highway/Roadway Capacity

The Draft EIR prepared by the City indicates that construction of the Loop Road would modify existing traffic circulation patterns in the Stateline area. Figures A-3 and A-4 (attached) indicate estimated 1982 daily traffic volumes without and with construction of the Loop Road. As can be noted from comparison of the two figures, the expected effect of construction of the roadway would be to modify traffic circulation to decrease the traffic volumes on Highway 50 both eastbound and westbound of the intersection with Park Avenue, with a corresponding increase in traffic volumes along Montreal Road and the Loop Road extension. For instance, the segment along Highway 50 and south of Park Avenue would be projected to experience a net decrease of almost 6,000 vehicles daily, while the Loop Road would be anticipated to carry that approximate volume.

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Agenda Item VII D.
Status of Loop Road
page three

This projected situation can be analyzed in two perspectives. First, it can be asserted that this modifies the traffic circulation patterns through alteration of the network, but because of other critical links in the highway system that are currently at capacity and because the demand for transportation is not modified, there would be no net effect on the highway capacity through the Stateline area. Second, it can be argued that, in restructuring traffic circulation, the traffic volume removed from Highway 50 would be available to provide for additional capacity along Highway 50.

Increase in Air Pollution - The City's DEIR concludes that total emissions of carbon monoxide could be reduced as a result of construction of the Loop Road with more efficient operation of vehicles and reduction of traffic congestion. The DEIR does not address other forms of emissions.

Alternatives

The staff has evaluated three possible actions in response to the City's request for a special determination.

1. Approve the City's request to find that construction of this portion of the roadway is not temporarily prohibited by the Compact and advise the City that it may proceed with its application for construction under the project review procedures established by the Agency, including the necessary environmental documents. This alternative would require TRPA to work in close cooperation with the City and its environmental consultant in finalizing the environmental documents, including measures necessary to mitigate any impacts identified as a result of the project and to ensure consistency with the Transportation Element.

2. Acknowledge receipt of the City's request for a special determination in this matter and direct staff to give favorable consideration to inclusion of the Loop Road as an element of the Regional Plan. This alternative would direct the development of the Transportation Element and would positively focus TRPA's efforts to identification of mitigation measures which should be addressed to solve the traffic congestion problems in the Stateline area. Completion of an EIS for the project would very likely be unnecessary since the Transportation Plan and EIS would address the cumulative impacts of the transportation system and Loop Road as required by the Compact.

3. Find that the construction of the Loop Road is prohibited until adoption of the Transportation Plan and request that the City submit an application for consideration of the project upon completion and adoption of the Regional Plan.

10/15/82

Agenda Item VII D.
Conclusions and Recommendations

After review of the City's request and evaluation of concerns related to the development of the Transportation Element, it appears that the major remaining concern regarding construction of the Loop Road is definition of the measures reasonably necessary to complete a system which will properly function with other transportation improvements in the area. Agency staff suggests that the most appropriate means of accomplishing this task is with Alternative 2. It is therefore recommended that the Governing Board direct staff to give favorable consideration to inclusion of the Loop Road in the Regional Plan.
September 30, 1982

MR. PHIL OVEREYNDER  
TAHOE REGIONAL PLANNING AGENCY  
P.O. Box 8896  
South Lake Tahoe, California 95731

Dear Mr. Overeynder:

SUBJECT: MONTREAL ROAD EXTENSION (UPPER LOOP ROAD EXTENSION)

The City is requesting concept approval from the Tahoe Regional Planning Agency Board for street improvements for Montreal Road extension (see attachments 1 - 4). If the Regional Board agrees with the concept of the street extensions, then the City will proceed with the environmental documents, construction plans, and local planning agencies approvals.

Project Purpose:

The proposed project consists of extending Montreal Road at its present terminus approximately 440' northeast to the presently constructed Loop Road in Douglas County, Nevada. The purpose of the project is to serve as an alternate access for emergency situations and to improve local traffic circulation.

Project Schedule:

The proposed project is to start construction by May 1983 with completion by August 1983.

If you have any questions, feel free to contact the undersigned.

Yours truly,

Richard Milbrodt
RICHARD MILBRODT,  
City Manager

RM: ap  
Attachments
FIGURE 2
LOCATION MAP
Scale: 1" = 1,000'

FIGURE 3

PROJECT MAP
FIGURE 4

MONTREAL ROAD EXTENSION
(UPPER LOOP ROAD EXTENSION)

SCALE: 1" = 400'
G. Towle/J. Rogan, Finding of Vested Right, Fourplex, Tahoe Village Unit #1, Douglas County, APN 09-032-22 - 09-032-25, TRPA File #82-1320

Applicant: Gary Towle and Jerry Rogan

Project Description: The applicant proposes to construct a fourplex on the subject lot. The Tahoe Village Unit #1 Subdivision was recorded prior to the creation of TRPA and therefore is recognized as a preexisting subdivision. However, since the adoption of TRPA Ordinance 81-5, the only residential construction that can be approved by the Agency on high hazard lands is one single family dwelling per lot under the case-by-case review procedures. A finding of vested right will allow the claimants to construct a fourplex without review or approval by the Agency.

Project Location: Lot 31, Tahoe Village Unit #1. The lot is located on the ridge of the Tahoe Basin between Quaking Aspen Drive and Tramway Drive. Approximately half of the lot is in the Basin and therefore within TRPA's jurisdiction. The other half of the lot is outside of the Basin.

Review Per Section: Article VI(b) of the Compact
Article 6.3 of the TRPA Rules and Regulations

Land Use District: General Forest

Land Capability Classification: Level 1A, CaF (Cagwin-Rock outcrop complex, 30 to 50% slopes) 1% allowable land coverage

Project History:

1. The claimants purchased the property in February, 1975 for $47,000.
2. In June, 1980, the claimants purchased sewer and water permits for $3,400.
3. In September, 1980, the claimants installed the sewer and water lines at a cost of $1,226.50.
4. In December, 1980, the claimants had a topographic map prepared for $500.
5. In March of 1981, the claimants had building plans drawn for $1,200.
6. In March of 1981, the claimants paid in full the sewer bond of $3,040.
7. Taxes paid on the property from February 1975 to October 1982 are $2,000.
8. Sewer bond installment has been $5,000.

GG:jf
10/15/82

Agenda Item VII E.
Towle/Rogan Vested Right Finding
page two

9. Sewer and water monthly charges have been $3,000.

10. Tahoe Village Homeowners Association dues have been $2,000.

Total expenditures, excluding the purchase price, have been $21,367. Total expenditures, excluding purchase price, prior to the adoption of the TRPA Compact in December, 1980, were approximately $5,127.

The claimants contend that on a number of occasions they were informed by Douglas County that TRPA review and approval were not required to construct a fourplex on the lot. It was Douglas County's understanding that, even if a lot were within TRPA jurisdiction as described in the Compact, if the runoff from that lot did not drain into the Basin due to road construction, review and approval were not required by the TRPA. Irrespective of the misunderstanding relative to jurisdiction, prior to adoption of the amended Compact in December, 1980, the construction of a fourplex did not require review and approval by the Agency. After adoption of the amended Compact, the jurisdictional problem was brought to the attention of the Governing Board. The Board directed staff to individually notify all owners of property in the vicinity of Tahoe Village and within the natural Tahoe Basin that development of their property was subject to review and approval by TRPA. The claimant received notification in September, 1982.

Vested Rights Findings: It is Agency Legal Counsel's opinion that a person has a vested right against application of Article VI(c) of the Compact or any other provision of the Compact if, prior to December 19, 1980, such person in good faith and in reliance upon a valid building permit for such use, diligently commenced construction thereof and performed substantial work thereon. Pertinent factors that should be considered include the following:

1. The claimants have not obtained a building permit.

2. The work performed was done in reliance on a permit issued by the Kingsbury General Improvement District for installation of sewer and water lines to the construction site.

3. No grading or excavation have been performed for foundations.

4. The work performed can be used for construction of a use other than that claiming to be vested. The water and sewer lines could be used for the construction of a single family dwelling.

5. Construction of a reasonable use can be accomplished on that portion of the lot located outside the jurisdiction of the TRPA.

10/15/82

Agenda Item VII E.
MEMORANDUM

October 12, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Buchbinder/Elegant, Appeal of Staff Decision Pursuant to Lot Review Criteria, Case-by-Case Review of Single Family Dwelling, Lot 17, Geraldine Drive, Level 1A, Washoe County, APN 125-232-06, TRPA File #81-1392

The applicant requests that the subject appeal be continued to the December Governing Board meeting. The applicant resides in Florida and would be unable to attend the October or November Governing Board meetings.

NS:jf
10/12/82

Agenda Item VIII
MEMORANDUM

Date: October 14, 1982

TO: TRPA Governing Body
FROM: Agency Staff
SUBJECT: D'Alessandro/List Show Cause Hearing, Violation of Condition of Approval, Washoe County APN 125-511-23, TRPA File #81896

Project History: The subject project was approved as a single family dwelling with a 1980 status on February 24, 1982. That approval was a result of much negotiation between the applicant and Agency staff. One of the conditions of approval was that foundations and utility trenches be hand dug unless a plan for limited equipment access was approved by Agency staff. This condition is stated on the approved plans. In June 1982, staff was contacted by a contractor who wished to bid the job. Staff, at that time, informed the contractor that foundations had to be hand dug and that the site was critical in nature. The contractor, therefore, did not bid on the job.

On July 22, 1982, Agency staff discovered that construction had commenced on the site and that equipment had been used extensively.

Environmental Impacts: The subject parcel is a downhill lot with a slope of 30% across the building site. The building site is the flattest portion of the lot. There is a road fill which was well vegetated prior to commencement of construction. The applicant obtained a building permit and proceeded to dig the foundations with equipment. The road fill was disturbed and vegetation removed. A disturbed area was cut into the bottom of the parcel for utility access. Vegetation removal and site disturbance was excessive and was not restricted to the foundation limits. The amount of disturbance is clearly in excess of that which is appropriate on a site of such a critical nature.

Recommended Action: The applicant has submitted a plan to recontour and hydromulch the disturbed areas outside the foundation limits. The balance of the excavation will be hand dug.

Agency staff recommends that in lieu of civil action to assess civil penalties as provided for under Article VI, Paragraph I of the TRPA Compact, the Governing Body accept a $5,000.00 payment to the Agency.

NS:jf
10/14/82

Agenda Item IX A. 1
MEMORANDUM

DATE: October 7, 1982

TO: TRPA Governing Body

FROM: The Staff

SUBJECT: Craig Ewald, Unauthorized Tree Cutting, 642 Inspiration Drive, Douglas County

On September 23, 1980 a field investigation was conducted on Mr. Ewald's property located at 642 Inspiration Drive in Douglas County. As shown on the attached investigation report, seven live, healthy trees were cut down and one was severely damaged. An Agency tree removal permit was not issued nor was one applied for on the subject property. Adjacent property owners indicated that the trees were cut on September 17, 1982 after 5:00 p.m.

The trees on the lot were not in a crowded condition nor were there any other indicators of a threat to the health of the surrounding stand of trees. The location of the removed trees indicate that the removal was for view enhancement purposes. They were located lakeward of a deck and concentrated in a small area.

Mr. Ewald has been informed in writing of the violations (the letter is attached) and of this hearing. He contends that the trees were cut down without his consent. The property has been for sale for one year during which time Mr. Ewald has resided in Hawthorne, California. He said that he has only traveled to the property once during that time.

As the property owner, Mr. Ewald has the primary responsibility for what occurs on his property. There is some evidence that suggests that the realty company Nevada West Realty, which he has a contract with to sell his property, may have contracted with a tree service company to remove the trees.

Agency staff recommends that Agency legal counsel be directed to proceed with civil litigation to assess the maximum penalty of $5,000 as set forth in Article VI(L) of the TRPA Compact. However, in lieu of civil litigation staff would recommend a minimum payment to the Agency of $2,650, plus restoration of the site. The $2,650 assessment is based on the total diameter inches of live, healthy trees over 6 inches diameter removed at 4.5 feet above ground level. As the measurements were taken on seven of the trees at stump height, one inch was subtracted to take into account log taper. The total diameter inches were then multiplied by $50.00 per inch. Site restoration must include a replacement on a three to one ratio of trees removed according to the species removed. The planted trees must be of a minimum three gallon stock and all stock which does not survive must be replaced.

10/7/82
KS;sf AGENDA ITEM IX.A.2.
September 24, 1982

Mr. Craig Ewald
14015 Judan Avenue
Hawthorne, California 90250

Subject: Unauthorized Tree Removal, 642 Inspiration Drive, Douglas County

Dear Mr. Ewald:

On September 23, 1982 a Stop Work Order was placed on your property instructing you to cease any further tree cutting without the necessary Agency approvals. Under the Tahoe Regional Planning Agency Ordinance 81-1 all tree removals are projects and require Agency review and approval. This is done at a staff level using a short one page application form.

All of the trees cut on your property were alive and healthy prior to being cut. This determination was made based upon the report enclosed. This Agency does not authorize the removal of live, healthy trees unless it is for the purpose of thinning an overcrowded stand to improve the health of the surrounding trees. In this case thinning was not required of the stand and, therefore, given the information we have available, a permit would not have been issued authorizing the removal of the trees.

This case will be scheduled for a show cause hearing before the TRPA Governing Board during its October meeting. At that time the Board will decide on this matter based upon staff recommendations and presentations by yourself or your representative if you desire.

Any person who violates any provision of an ordinance or regulation of the Agency is subject to a civil penalty not to exceed $5,000. The staff may, with Governing Board approval, arrange a mitigation settlement. This must include site restoration and civil penalties. A mitigation proposal may be submitted to this Agency. It must include the above items and will be given a thorough review by Agency staff.
Mr. Craig Ewald
RE: Unauthorized Tree Removal
September 24, 1982
Page 2

Please contact me if you have any questions on this matter.

Sincerely,

Steve Chilton
Environmental Investigator

SC:md

Enclosure

cc: Douglas County Building Department
    Nevada Division of Forestry
MEMORANDUM

September 24, 1982

TO: TRPA Governing Board

FROM: Steve Chilton

SUBJECT: Investigation Report, Inventory of Cut Trees at
642 Inspiration Drive, Douglas County,
Dated September 23, 1982

All stumps were numbered, using yellow tree paint.

<table>
<thead>
<tr>
<th>Stump #</th>
<th>Diameter Inside Bark</th>
<th>Stump Height Above Ground</th>
<th>Species</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>9&quot;</td>
<td>28&quot;</td>
<td>JP</td>
<td>live, healthy</td>
</tr>
<tr>
<td>2</td>
<td>10&quot;</td>
<td>23&quot;</td>
<td>JP</td>
<td>live, healthy</td>
</tr>
<tr>
<td>3</td>
<td>5.5&quot;</td>
<td>12&quot;</td>
<td>JP</td>
<td>live, healthy</td>
</tr>
<tr>
<td>4</td>
<td>5&quot;</td>
<td>12&quot;</td>
<td>JP</td>
<td>live, healthy</td>
</tr>
<tr>
<td>5</td>
<td>14&quot;</td>
<td>13&quot;</td>
<td>IC</td>
<td>live, healthy</td>
</tr>
<tr>
<td>6</td>
<td>16&quot;</td>
<td>56&quot;</td>
<td>JP</td>
<td>live, healthy; a healed construction scar on the uphill side.</td>
</tr>
<tr>
<td>7</td>
<td>7&quot;</td>
<td>6&quot;</td>
<td>IC</td>
<td>live, healthy</td>
</tr>
<tr>
<td>8</td>
<td>8&quot; diameter taken at dbh</td>
<td></td>
<td>WF</td>
<td>live; top broken out by falling operation; tree still standing</td>
</tr>
</tbody>
</table>

SC: md
MEMORANDUM

October 12, 1982

To: The TRPA Governing Board

From: The Staff

Subject: South Shore Marina, Noncompliance With Conditions of Approval, City of South Lake Tahoe

On May 7, 1982, the TRPA Governing Board approved a project at South Shore Marina as ordinary maintenance and repair. TRPA staff concurred in this finding. The project consisted of paving an existing compacted soil parking area, providing onsite infiltration facilities for parking lot runoff, improving the traffic circulation and parking facilities, and replacing two above-ground fuel storage tanks with one underground tank.

During the project's construction, deviations from the approved plans were noted and a meeting involving all principals was conducted. In attendance were Ms. Dena Schwarte (agent for the marina) and CTRPA, TRPA and Lahontan staff representatives. During the meeting onsite as well as offsite, compliance was discussed.

The slope of the finished parking lot is contrary to the plans. The slope is away from the installed infiltration trench along the bulkhead wall. A redesigned plan was submitted showing infiltration along the bulkhead wall. There is some question as to the effectiveness of this infiltration arrangement. TRPA will be relying upon the Lahontan Water Quality Control Board staff to determine its adequacy.

Offsite disturbance was discussed in much detail at the meeting. A great deal of soil disturbance has occurred during the project's construction on property to the east owned by the Dillingham Corporation. Spoil piles from excavation and grading and marina equipment (such as boats, trailers, boat cradles and other miscellaneous equipment previously stored on the parking area) were stored in that area during construction. As the paving was completed, an agreement was reached by those in attendance at the meeting to remove the non-native material by September 13, 1982 and to restore the site by September 23, 1982.

A letter was sent to Mr. Raymond Carreau, the marina owner, on September 30, 1982, informing him that the dates had passed and only partial compliance had been achieved. The spoil material had been removed, and those areas where it

SC:jf
10/12/82

Agenda Item IX A. 3.
South Shore Marina
Show Cause Hearing
page two

had been located had been seeded and mulched. A large amount of marina
equipment remained east of the block wall and no attempts had been made to
revegetate the area. Mr. Carreau was notified at that time that a show cause
hearing had been scheduled on the matter for the October, 1982 Governing Board
meeting. Since October 7, 1982, the South Shore Marina has been moving
equipment off of the disturbed area and has been attempting to locate suitable
storage sites for the equipment. A hearing may not be necessary at the Board
meeting if further compliance is achieved prior to the meeting date. An
enforcement report concerning the matter will then be presented instead.
September 7, 1982

Mr. Raymond Carreau
P. O. Box TA
South Lake Tahoe, CA 95705

Re: Compliance with Conditions of Approval

Dear Mr. Carreau:

On September 7, 1982, a meeting was held at the TRPA offices concerning compliance of the South Shore Marina with approvals issued by this and other agencies. In attendance were Dena Schwarte, CTRPA staff, Lahontan staff and TRPA staff.

The lack of a set of plans officially approved by the TRPA was discussed as were the adequacy of the on-site infiltration. The fact that much of the project has been built and is being used creates a problem for yourself in the present as well as in the future. As the project is now being reviewed in an as built stage the possibility exists that some of the already constructed project may have to be redesigned. There is some question as to the effectiveness of the on-site infiltration systems. We will be relying upon the Lahontan Water Quality Control Board staff to determine its adequacy.

The off-site disturbance was discussed in much detail. A great deal of soil disturbance has occurred during the project and it is now time to restore these areas. It was agreed that by Monday, September 13, 1982, all spoil material would be removed to an approved site and that all marina equipment, boat cradles, trailers and any other non-native material east of the block wall would be stored on approved impervious surface within the marina. It was further agreed that all disturbed areas east of the block wall would be seeded and mulched by Thursday, September 23, 1982. Inspections will be made on those dates to insure compliance.

Please contact me if you have any questions on this matter.

Sincerely,

Steve Chilton
Environmental Investigator

SC:sf

cc: Lahontan
CTRPA
South Lake Tahoe Building Department
Dena Schwarte
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 8896
South Lake Tahoe, California 95731

2155 South Avenue

September 30, 1982

Mr. Raymond Carreau
P.O. Box TA
South Lake Tahoe, California 95705

Subject: Compliance with Conditions of Approval

Dear Mr. Carreau:

The agreement reached on September 7, 1982 between your agent, Ms. Dena Schwarte and the agencies in attendance as discussed in my letter of September 7, 1982 has not been fulfilled.

It was agreed that by Monday, September 13, 1982, all spoil material would be removed to an approved site and that all marina equipment, boat cradles, trailers and any other non-native material east of the block wall would be stored on approved impervious surface within the marina. It was further agreed that all disturbed areas east of the block wall would be seeded and mulched by Thursday, September 23, 1982. Those dates have since passed and only a portion of the agreed upon actions have been taken. The spoil material has been removed and those areas where it had been located has been seeded and mulched. A large amount of marina equipment remains on the east side of the block wall and no attempts have been made to revegetate that area.

A show cause hearing has been scheduled for the October, 1982 Governing Board meeting concerning this matter. The Agency’s areas of concern include the commitment by yourself to restore the area east of the block wall and the overall compliance with the approved plans and the conditions of approval for the marina parking area.

Please contact me if you have any new information or concerns.

Sincerely,

[Signature]

Steve Chilton
Environmental Investigator

Enclosure

cc: California Tahoe Regional Planning Agency
Ms. Dena Schwarte
City of South Lake Tahoe, Planning Department
Lahontan Regional Water Quality Control Board
City of South Lake Tahoe, Building Department
MEMORANDUM

October 12, 1982

To: The TRPA Governing Board

From: the Staff

Subject: Tom Pitts, Unauthorized Pier Construction,
8381 Kehlet Drive, El Dorado County,
APN 16-081-431, TRPA File #81149

Background: The U.S. Army Corps of Engineers discovered that Mr. Pitts constructed a walkway to access his existing pier some time between 1970 and 1975 without required permits. The walkway ran parallel to the shoreline and was 6' wide and 30' long. In 1981, the unauthorized walkway was replaced with a sun deck that measures 14'3" wide at the south end, 25' wide at the north end and is 32'6" long. The pilings supporting the new deck are anchored to large granite boulders located below the high water line.

CTRPA, TRPA and the U.S. Army Corps of Engineers requested that an application be submitted to bring the unauthorized structure into conformance with the provisions of the TRPA Shorezone Ordinance by June 1982. Although an application was submitted, no modifications to the structure were proposed. Another letter was written to the applicant by TRPA staff requesting that the plans be revised to conform with Section 7.31 of the Shorezone Ordinance. To date, no additional information has been received. The sun deck is considered a pier under the Shorezone Ordinance because it is a fixed platform that extends from the shoreline over the water. The dimension standards for individual use piers as set forth in Section 7.31 of the Shorezone Ordinance states that the width of a pier shall not exceed 10'; therefore, the subject pier is nonconforming.

Staff Recommendation: The subject pier was constructed without the authorization of any of the agencies having review authority and violates Section 7.31 of the Shorezone Ordinance. The staff recommends that the Governing Board take the following actions:

1. Direct the applicant to remove the unauthorized deck structure to bring the existing shorezone structures into conformance with the standards for individual use piers as set forth in the Shorezone Ordinance.

2. Authorize legal counsel to take appropriate action to accomplish the objectives set forth above.

KE: jf
10/12/82

Agenda Item IX A. 4.
EXISTING DECK AND PIER

LOCATION:
IN LAKE TAHOE
@ PARCEL # 16-091-48
EL DORADO CA.

APPLICATION BY:
DR. TOM PITT
5605 GRANT DR.
RENO, NEVADA 89509

SHEET 1 OF 3
3-8-82

EXISTING DECK
EXISTING PIER

EXISTING STAIRS DOWN
PATH UP TO HOUSE

APX. 16-091-431

R. EXT. (144.3')

APX. 16-081-431

R. EXT. (139.1')

邛

- LAKE TAHOE -
MEMORANDUM

October 14, 1982

To: The TRPA Governing Body

From: The Staff

Subject: Show Cause Hearing, Kern Schumacher, Grading Violation, Single Family Dwelling, 1047 Lakeshore Boulevard, Incline Village, Washoe County, APN 122-320-13 and -14

Project History

In November of 1980, Mr. Schumacher applied for and received a building permit from Washoe County for the construction of a single family dwelling located on the above-referenced parcels. Since the new construction was to be situated outside of the backshore, no TRPA review was required at that time. In the spring of 1981, Mr. Schumacher applied to TRPA for an administrative permit along with revised plans to move the proposed dwelling closer to the Lake into the backshore area. This application was denied at the July, 1981 Governing Board meeting. A recent conversation with the owner's representative indicated that new plans and application will again be submitted for approval of backshore construction.

In the summer of 1981, grading work commenced on the originally permitted dwelling (not requiring TRPA review). Approximately 900 cubic yards of earth were excavated and stockpiled on the site being placed around the existing pine trees in violation of Sections 7.152 and 7.153 of the TRPA Grading Ordinance. During site inspection in the fall of 1981, the owner's representative was told to remove the spoil material from around the trees. Only partial compliance was obtained. A September, 1982 site inspection indicated that the property owner was still in violation. The attached cleanup and abate order was then sent out to the owner.

Environmental Impacts

The stockpiling of spoil material around trees causes soil compaction which cuts off air, water and nutrients to the trees. The resulting slow starvation may cause damage and possible death to the vegetation in the immediate area. The Agency's wildlife and vegetation specialist confirms the potential for eventual damage.

RP:jf
10/14/82

Agenda Item IX A. 5.
Recommended Action

Agency staff recommends that Agency legal counsel be directed to proceed with civil litigation to assess the maximum penalty of $5,000 as set forth in Article VI(L) of the TRPA Compact. However, in lieu of civil litigation, staff would recommend a minimum payment to the Agency of $1,000 as a fine for continued violations of the TRPA Grading Ordinance, and in addition, the owner be directed to immediately comply with the attached cease and desist order directing him to remove or relocate the spoil material as indicated.

Attachment
September 23, 1982

Mr. Kern Schumacher  
P.O. Box 3567  
Incline Village, Nevada 89450

Subject: Fill Material, 1047 Lakeshore Boulevard, Incline Village, Nevada

Dear Mr. Schumacher:

Recent site inspection of the above referenced parcel has shown that the excavated material from your single family dwelling construction project remains on site piled around trees and vegetation, in violation of the Tahoe Regional Planning Agency's Grading Ordinance. This spoil material shall now be removed from the property to an approved dump site, or the total amount of fill shall be stored and fully contained on the existing tennis court area. This shall be accomplished within fifteen (15) days from the date of this notice.

In addition, you shall properly winterize the project site, ensuring that all erosion control measures are in place. If you should have any questions concerning this matter, please feel free to call.

Sincerely,

Robert Pavich  
Environmental Investigator

RP:md

cc: Mr. Richard Hebel
MEMORANDUM

October 13, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Enforcement Report

Following are summaries of ongoing enforcement activities for the month of October:

Frank Ardezzone, Site Restoration, Lot 32,
Chiapa Drive El Dorado County, TRPA File #82-1296

In October, 1981, TRPA was made aware of fill material being dumped on a lot located in a level 1B land capability. A field investigation was made and a stop work order was issued. Subsequent investigation showed that the property owner, Mr. Frank Ardezzone, had been working since 1968 through local contractors to obtain a building permit. Mr. Ardezzone lives out of the area and rarely has visited the lot. A foundation-only permit was obtained in 1968; the foundation was not started, but some fill had been dumped. The new fill being deposited on the site came within TRPA jurisdiction and staff pursued the violation.

In weighing the benefits of retaining the fill area in its current state through inclement winter weather and attempting to clean up the site, it was decided to work on a site restoration plan for implementation during the 1982 construction season. Mr. Ardezzone hired a local contractor to draw up restoration plans which were reviewed and approved by TRPA staff. A permit was issued to restore the site to its original condition and twice the filing fee was charged for cleanup of the unauthorized work ($300) along with payment of a $1,000 conformance security. The project is to be completed by October 15, 1982. The fill will be removed without causing further site disturbance and the entire disturbed area will be seeded, mulched with straw, and jute matted. Native shrubs will be planted randomly on the site.

Staff feels that violation of TRPA ordinances in this case was not willful. Through implementation of the restoration plan, the site will be returned to a stable condition and staff recommends no further action be taken.

SC:jf
10/13/82

Agenda Item IX.B.
Enforcement Report  
October 13, 1982  
page two  

Chapman/Blair, Unauthorized Tree Removal, Placer County

The CTRPA Governing Board heard this matter at its October 1, 1982 meeting. Prior to obtaining a permit to relocate a single family dwelling, a substantial number of trees were removed without any agency authorizations. Subsequently, TRPA staff inspected the site and compiled the attached field report on the removed trees. The CTRPA Board voted to impose a $5,050 fine and required that the property be stabilized and revegetated to CTRPA staff's recommended specifications. The fine was based upon a formula requiring payment of $50 per inch of diameter (dbh) for all live, healthy trees over 6" in diameter that were cut.

Attachment
MEMORANDUM

September 22, 1982

TO: Tom Quaglia, CTRPA
FROM: Steve Chilton

SUBJECT: Chapman, APN 84-181-01
Inventory of Cut Trees by Steve Chilton on September 21, 1982
Sunnyside Lane, Placer County

WF = White Fir
JP = Jeffrey Pine

<table>
<thead>
<tr>
<th>Stump #</th>
<th>Inside Bark Diameter</th>
<th>Species</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>15</td>
<td>WF</td>
<td>standing dead</td>
</tr>
<tr>
<td>2</td>
<td>15</td>
<td>WF</td>
<td>standing dead - heart rot</td>
</tr>
<tr>
<td>3</td>
<td>13</td>
<td>WF</td>
<td>standing dead</td>
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<td>4</td>
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<td>standing dead - heart rot</td>
</tr>
<tr>
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<td>standing dead</td>
</tr>
<tr>
<td>11</td>
<td>16</td>
<td>WF</td>
<td>live, healthy</td>
</tr>
<tr>
<td>12</td>
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<td>43</td>
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**NOTE:** Numerous stumps were found to have been knowingly covered with slash by workers on the site.

1 Evidence that tree had been cut years ago and flush cut recently.

Addition: An estimate was made of the total diameter of trees removed from highly disturbed areas. Stumps were removed from these areas. Estimated diameter is 82 inches.
MEMORANDUM

October 14, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Public Hearings - October, 1982 Agenda

Specific ordinance language for items A, B, and C on the October agenda will be mailed under separate cover by Agency legal counsel. These amendments relate specifically to the following:

A. Extension of the Case-by-Case Review Criteria Procedure to August 28, 1983 (Ordinance 81-5);

B. Extension of the Provisions Limiting Issuance of Building Permits (Ordinance 81-8); and

C. Condominium Conversions on Nonconforming Properties (Ordinance 4).

jf
10/14/82

Agenda Items X A.- C.
MEMORANDUM

October 14, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Public Hearing to Consider Amendments to Lot Review
Criteria Pertaining to Land Stability

Background

In August, 1981, the Governing Board adopted by resolution a set of criteria to
be utilized in reviewing applications under the case-by-case review procedure
established for the Nevada portion of the Basin. The detailed criteria to
screen individual lots for potential impacts on water quality included four
criteria: Proximity to Stream or Wetland, Runoff Potential, Land Stability and
Vegetation.

At the May, 1982 Governing Board meeting a public hearing was conducted to
consider a range of alternative actions which would modify the criteria
established by the lot review criteria. At that time, the staff gave a brief
report on the effectiveness of the case-by-case review system including the lot
review criteria. The discussion and alternatives analyzed focused on the land
stability criteria which specifies that slopes in excess of 30% are considered
to be high risk and are therefore precluded from further consideration under the
case-by-case review procedure. Agency legal counsel further advised the
Governing Board that the review criteria as currently established by the
resolution applied to actions by both the staff and Governing Board; and without
modification to the criteria, the Governing Board was precluded from giving
favorable consideration to applications involving construction on slopes greater
than 30%.

At the May hearing, the Governing Board considered three potential options as
follows:

1. Modifying the slope criteria;

2. Modifying the management criteria (i.e. making approval of slopes
greater than 30% discretionary); and

3. No action.

PAO:jf
10/14/82

Agenda Item X D.
Amendments to 1981 Case-by-Case Criteria
Pertaining to Land Stability
page two

Based on the information available at the time, the Governing Board selected alternative 3 with the direction that the matter be reconsidered at the October meeting. The staff report on this alternative suggested that after establishment of environmental threshold standards, more detailed criteria could be considered for the case-by-case review process as part of the Regional Plan.

Available Information on Case-by-Case

As part of the certification process for the Water Quality Plan, TRPA was required to submit an evaluation report on the case-by-case process to Nevada, California and EPA during 1982. As part of its work program for updating the Water Quality Plan as part of the Regional Plan, staff is presently in the process of preparing this evaluation report. The report will utilize several different approaches to evaluate the effectiveness of the case-by-case program, including:

1. Field Studies - TRPA staff has selected construction sites throughout the Basin on high hazard lands to field-verify conformance with conditions of approval and to determine whether significant erosion problems have occurred during or after construction. A summary of the field notes, findings and recommended modifications will be included in the report evaluating the case-by-case process. At the present time, there is no definitive information regarding the effect of slope on observed water quality problems although a general observation indicates that increasing slope tends to decrease the efficiency of best management practices.

2. Offsite Mitigation - The effectiveness of the off-site mitigation program in offsetting the impacts of construction on high hazard lands will be reviewed. Because of the lag time involved in putting the erosion controls in place, this will involve estimates of the effectiveness of the projects funded and committed to date which are not yet available.

3. Cumulative Impacts - Brown and Caldwell has been contracted by TRPA to develop sediment and nutrient concentration coefficients as a function of soil type, slope and percent land coverage as part of the environmental threshold contract and this will be completed in the next month. This data will be utilized to project the cumulative impacts on water quality of development activities on various land capability classes and will give the Agency a valuable tool for comparing the relative impacts of the case-by-case program to continued construction on higher capability lands. These projections will also be compared against the estimated effectiveness of the offsite mitigation program to assess the effectiveness of the case-by-case review system.

10/14/82 Agenda Item X D.
4. **Slope Effects on Erosion Hazard** - Research is available on the effect of slope as it relates to soil loss from the Universal Soil Loss Equation. The attached graph shows the effect of increasing slope in percent as it affects the topographic factor, which is one of the prime determinants in calculating soil loss. The Soil Conservation Service accepts 30% as a cutoff point for classifying soils with a high erosion hazard, which is further substantiated by the Bailey Land Capability System.

**Summary**

In summary, TRPA staff is continuing to research and evaluate the effectiveness of the case-by-case system through a variety of techniques but has not yet completed its findings. The existing criteria of 30% slope appears to be based on the best scientific evidence currently available. Staff recommends that any modification to the criteria would be premature before completion of the case-by-case report which will be presented at the December Governing Board meeting.
MEMORANDUM

October 13, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Litigation Matters

Under separate cover, Agency legal counsel will be sending Board members information on settlement of litigation and related matters for Dillingham Development Company and Bitterbrush Subdivision.
MEMORANDUM

October 14, 1982

TO: TRPA Governing Body

FROM: Agency Staff

SUBJECT: Regional Plan - Issues and Strategies
Agenda Item XII. A.

Attached is a tentative list of issues we feel are important concerns in development of the Regional Plan. A preliminary set of strategies developed in response to the issues is also included. This listing represents further refinement of the issues and alternatives discussed at the September meeting.

The issues and strategies will be presented to the public in a series of workshops beginning October 13 and carrying through to the 28th. We will seek review of the issues and strategies and ask the public to suggest additions that staff may have overlooked.

Staff will update the Board on progress of the workshops and discuss preliminary issues and strategies identified through the public participation effort. The final report on this first phase of the Regional Plan development process will be presented at the November Board meeting.

AGENDA ITEM XII A.
LAND USE

Issues:
1. What is the appropriate rate, amount, type, and location of development?
2. How can low and moderate income housing be provided?
3. How can unacceptable noise be eliminated?
4. How can risks from natural hazards, e.g. flood, fire, be minimized?
5. How can air quality be improved?
6. How can water quality be improved?
7. What is appropriate building and community design?

Strategies (not mutually exclusive):

A. Development and housing
   a. Allow market place to determine growth rates, type of development, etc., and provide housing
   b. Establish a growth management system to regulate:
      - growth rate, e.g. two percent per year
      - amount, e.g. 500 units per year
      - type, e.g. residential vs. commercial, public vs. private
      - location, e.g. within existing subdivided areas
   c. Allocate fair share housing requirements within the region
   d. Re-develop existing developed areas

B. Noise
   a. Modify equipment and vehicles
   b. Regulate hours and location of use
   c. Zone land for compatible uses
   d. Buffer transportation corridors, e.g. with vegetation
   e. Modify traffic, e.g. prohibit trucks at certain hours

C. Natural hazards
   a. Restrict development in hazardous areas, e.g. avalanche areas, steep slopes, flood plains
   b. Require building modifications to minimize potential damage

D. Air quality
   a. Reduce pollution from out-of-Basin sources
   b. Reduce wood smoke by 15%
   c. Improve the vehicle fleet, e.g. auto-emission controls
   d. Reduce vehicle miles traveled (VMT) and make other transportation improvements (see Transportation)
E. Water quality
   a. Restrict development on high hazard lands
   b. Utilize Best Management Practices (BMP's)
   c. Maintain and restore Stream Environment Zones (SEZ's)
   d. Redevelop problem areas - reduce coverage, revegetate
   e. Reduce atmospheric pollution (see Air and Transportation)
   f.  
   g.  

F. Community design
   a. Allow market place to determine design and development pattern
   b. Establish uniform design standards for development in the Basin
   c. Adapt design standards to specific conditions and locations
   d. Upgrade existing development
   e.  
   f.  
TRANSPORTATION

Issues:
1. What can be done to reduce traffic congestion (especially on Highway 50 and in Tahoe City)?
2. How can impacts on air quality and noise be reduced?
3. How can vehicle miles traveled (VMT) be reduced by 7% on Highway 50 and by 10% Basin-wide?
4. How can transportation linkages to and within the Basin be expanded and made more efficient?
5.
6.

Strategies (not mutually exclusive):
A. Make existing transportation system more efficient, e.g. road widening and re-alignment, timed traffic signals
B. Construct new roads, e.g. Loop Road, bypass roads in Tahoe City, and North Stateline
C. Develop and expand public transportation system, e.g. non-motorized transportation: air, water, bike, pedestrian; light rail for South Shore; integrate bus service with air, AMTRAK, and ski shuttles
D. Use incentive/disincentive measures, e.g. Basin user fee, mail delivery
E. Regulate land use, e.g. limit new development in congested areas that generates high traffic volumes
F.
G.
CONSERVATION

Issues:
1. What can be done to minimize soil erosion and the loss of soil productivity?
2. How can vegetation, including rare and endangered species, be preserved and enhanced?
3. How can wildlife and fisheries, including rare and endangered species, be preserved and enhanced?
4. How should open space be managed?
5. How can the scenic quality of the Basin be restored and maintained?
6. How can Stream Environment Zones (SEZ's) be preserved and restored?
7. What uses should be permitted in the shorezone?
8. How should historic landmarks be preserved?
9. What can be done to promote energy conservation and provide for alternative sources of energy?
10.
11.

Strategies (not mutually exclusive):
A. Soil and vegetation
   a. Apply land capability system
   b. Reduce overcoverage, e.g. move or remove development, redevelop
   c. Apply Best Management Practices (BMP's) to new and/or existing development
   d. Apply Transfer of Development Rights (TDR)
   e. Minimize or prohibit development on high hazard lands
   f. Manage forests and other vegetation, e.g. selective cutting, burning, protection of riparian vegetation
   g. Manage grazing, e.g. location and intensity of use
   h. Review development on building sites, e.g. permitted amount of vegetation removal, use of non-native vegetation, revegetation
   i.
   j.

B. Wildlife and fisheries
   a. Regulate development and uses in wildlife habitat disturbance zones, e.g. new construction, public access
   b. Control non-native species, e.g. dogs
   c. Establish standards for piers, buoys, and marinas, e.g. location, size and design, amount of disturbance
   d. Establish minimum in-stream flows and restrict manmade structures in and diversions from streams
   e.
   f.

C. Open space and scenic resources
   a. Define types of open space and permitted uses in each
   b. Determine need for additional open space, criteria for evaluation, and acquisition priorities
   c. Determine permitted uses in scenic roadway and shoreline units
   d. Establish design review standards for scenic units, e.g. height limits
   e. Improve scenic quality of existing development through screening, painting, redevelopment
   f.
   g.
D. Stream Environment Zones (SEZ) and Shorezone
   a. Preserve SEZ through TDR, zoning, buffer, etc.
   b. Restore SEZ through purchase/donation, removal of structures, revegetation, etc.
   c. Determine permitted uses in SEZ, e.g. passive recreation, grazing
   d. Incorporate TRPA Shorezone Plan into Regional Plan
   e. Determine permitted uses in the shorezone and their location
   f. Determine appropriate locations for public access to the shorezone

E. Historic landmarks
   a. Establish criteria and procedures for designating historic landmarks
   b. Preserve landmarks, e.g. restricting demolition, state and federal designations
   c.
   d.

F. Energy
   a. Coordinated recycling program: newspapers, aluminum cans, etc.
   b. Establish energy performance criteria for new buildings
   c. Develop policies on wind, solar, and other alternate energy sources
   d.
   e.
RECREATION

Issues:
1. What is the appropriate type, amount, and location of outdoor recreational uses?
2. How can natural resources be protected from over-use?
3. What can be done about incompatible uses, e.g. cross-country skiing and snowmobiles?
4. What is a fair share allocation of natural resources and public services between recreation and other uses in the Basin?
5. What criteria should be used to designate areas for public park expansion or acquisition (if any)?

Strategies (not mutually exclusive):
A. Recreational uses
   a. Investigate demand for recreational facilities, land
   b. Maintain existing recreational facilities (status quo)
   c. Redevelop existing facilities to meet thresholds, maintain capacity
   d. Expand recreational capacity
   e.
   f.
B. Over-use/incompatibility of use
   a. Regulate intensity, timing, type, and location of use where necessary to protect resources
   b. Expand or redirect area of use to reduce use intensity
   c. Separate incompatible uses, e.g. by location, time, etc.
   d.
   e.
C. Fair share allocations
   a. Allocate first priority to public agencies
   b. First come, first served
   c.
   d.
D. Criteria for designating parks
   a. Suitability for varied recreational use
   b. Location and access
   c. Present level of development
   d. Topography, climate, aspect, and effects on use
   e.
   f.
PUBLIC SERVICES AND FACILITIES

Issues:
1. Should facility capacity constraints or the land use plan determine the extent of development?
2. What is a fair share allocation of limited public facility capacities among different users?
3. Should conservation or facility expansion be emphasized in meeting needs for additional capacity?
4. What can be done to provide for public health and safety?
5.
6.

Strategies (not mutually exclusive):

A. Capacities and the land use plan
   a. Use land use plan to set capacities
   b. Review proposed facility expansions for conformance with plan
   c. Use capacity constraints to set limits in land use plan
   d.
   e.

B. Fair share allocations
   a. Public vs. private, e.g. allocate to public based on percentage of Basin owned by public
   b. Residential vs. commercial, e.g. single family homes vs. motels
   c. Different types of public, residential, commercial
   d. First come, first served
   e.
   f.

C. Conservation vs. expansion
   a. Give priority to conservation
   b. Allow expansion without conservation
   c. Allow expansion, conditional upon conservation
   d.
   e.

D. Public health and safety
   a. Provide necessary services - police, fire, garbage, education, and social services
   b.
   c.
IMPLEMENTATION

Issues:
1. What is the most effective balance of responsibility among agencies for planning and implementation?
2. What can be done to maintain and promote social well being and economic stability as the Regional Plan is implemented?
3. What is an acceptable time frame for attaining thresholds?
4. How should threshold attainment and plan implementation be monitored and evaluated?
5. What will it cost to implement the Regional Plan, who will pay, and how?
6. 
7. 

Strategies (not mutually exclusive):
A. Responsibility
   a. TRPA
   b. Local governments
   c. Other agencies
   d. 
   e. 
B. Socio-economic factors
   a. Use market demand to drive growth and provide economic stability
   b. Develop a plan to meet thresholds with socio-economic factors secondary
   c. Develop a growth management system which promotes sustained economic stability and social well being
   d. Develop programs to foster economic stability and social well being, e.g. housing bureaus, redevelopment agency
   e. 
   f. 
C. Timing
   a. Determine how long it will take to attain thresholds under each plan alternative
   b. Determine cost for each
   c. 
   d. 
D. Monitoring and evaluation
   a. Determine agencies' responsibility for monitoring and evaluation
   b. Develop a monitoring system and what items to monitor
   c. Determine appropriate time frame for periodic review and update of plan and thresholds
   d. 
   e. 
E. Cost
   a. Determine cost of different strategies
   b. Select priorities for funding, e.g. strategies which are most cost effective, most socially acceptable, most reliable
   c. Examine financing options
      1. Public funds, e.g. state appropriations, grants, revenue sharing, bond issues
      2. Users of the Basin, e.g. parking fees, license fees, use charges
      3. Prime beneficiaries, e.g. improvement districts, assessment districts, development fees
   d.
   e.
MEMORANDUM

October 14, 1982

TO: TRPA Governing Board
FROM: Agency Staff

SUBJECT: Nevada Department of Transportation Erosion Control Study, Highway 50 Stateline to Spooner Summit, Agenda Item XII. B.

The Agency received the preliminary erosion control study by the Nevada Department of Transportation (NDOT) for the Highway 50 corridor from Stateline to Spooner Summit as a condition of approval for the recent overlay project on that section of Highway 50. The study basically lays out a plan to minimize or eliminate erosion within the NDOT highway right-of-way. The plan utilizes a broad spectrum of treatment practices but primarily concentrates on slope stabilization with toe-slope retaining walls and revegetation. The steeper and rocky slopes have rock riprapping and wire mesh proposed to stabilize the slopes. The drainage system focuses on rock lining and silt settling basins at the outlet of most culverts and the use of drop inlets and standpipes for many of the cross-drain culvert inlets. Additional right-of-way would be required in order to reshape some cut slopes and relocate salt/sand storage facilities. The total cost of the project is estimated to be $8,000,000. There is no funding committed to this plan at this time. The present NDOT budget and budget priorities do not include any money for erosion control along Highway 50 in the Lake Tahoe Basin. Possible funding sources include additional money from the Federal Highway Administration, U.S. Forest Service, Burton-Santini Program, Environmental Protection Agency, Nevada Department of Conservation and Natural Resources, or budget add-on for NDOT. None of these sources have been contacted concerning the possibility of providing funds. NDOT will further address funding sources, cost estimates and prioritization when the final report is submitted. The final report is to be submitted to the TRPA for review and approval by December 1, 1982.

The staff convened a review committee to evaluate and comment on the preliminary plan. The review committee is comprised of personnel from TRPA, Soil Conservation Service, U.S. Forest Service, Nevada State Environmental Protection Agency, and Douglas County. Staff will brief the Governing Board on the results of the review at the October Board meeting.

Comments from the review committee and Governing Board will be given to NDOT in early November in order for them to finalize the plan for final submission on December 1, 1982.

GS:md
10-14-82

AGENDA ITEM XII. B.
TAHOE REGIONAL PLANNING AGENCY

MEMORANDUM

DATE: August 13, 1982

TO: TRPA Governing Body

FROM: Philip A. Overeynder, Executive Director

SUBJECT: Lahontan Water Quality Control Board, Existing Parking Lot Erosion and Drainage Control Program

The Lahontan Regional Water Quality Control Board is developing a program to require paving of unpaved parking areas and revegetation of existing eroding areas. The program will focus on commercial property, not single family dwelling.

The properties along Highway 50 from the "Y" towards Meyers will be the first area the Regional Board intends to implement the program. The Regional Board staff will notify the affected property owners and identify the problem areas. The Regional Board will implement this program under the authority of the Porter-Cologne Water Quality Control and the Federal Water Pollution Control Act for waste discharge. The attached report developed by Lahontan Regional Board staff outlines the program they intend to implement.

Implementation of this program would be beneficial to water and air quality. The goal of the program would be to eliminate eroding compacted dirt areas and stabilizing drainage. In most cases, treatments would include paving of compacted allowable coverage and exclusion of access with revegetation of bare areas of unauthorized coverage. This concept is consistent with the TRPA Water Quality Management Plan. The program would reduce dust generated by vehicular use of unpaved areas which would improve subregional visibility associated with haze during the summer and fall. This program could also improve traffic problems along the major transportation corridors if business entrance and exits are redesigned. This program would help to achieve the environmental thresholds for subregional visibility.

The program would be independent of the TRPA Remedial Runoff and Erosion Control ordinance. While compliance with the Lahontan program would be consistent with the goal of the TRPA ordinance, the strategy for compliance would be different. Once a property owner is in compliance with the Lahontan requirements, generally it would not be necessary for TRPA to require further mitigation of parking areas under its runoff and erosion control ordinance.

The staff feels #4 of the program outline could conflict with the present policy which discourages the use of adjacent properties for parking. Also, the Lahontan program would allow up to 1000 square feet of paving before the property owner would be required to infiltrate all of the impervious surface area. TRPA staff feels 500 square feet may be a better cut off point.

/BL

AGENDA ITEM XIII D. 1.
MEMORANDUM
TRPA Governing Board
August 13, 1982
Page Two

The commercial property owners and Caltrans probably will be affected the most by implementation of such a program. Generally they will have covered the costs of implementing the program. Lahontan Regional Board will enforce this program as part of its Water Quality Plan implementation. As an indirect result of the Lahontan program, TRPA will process applications to ensure that the work performed is consistent with Agency ordinances. In most cases, this would involve a project exemption as a routine repair and maintenance project.

The Advisory Planning Commission discussed the Lahontan proposal at their August meeting and expressed concern regarding the regulatory nature of the program while supporting the goals of the program:

Alternative Actions

1. Express support for objectives of program and review erosion control plans at staff level to ensure conformance with TRPA ordinances.

2. Express support for objectives of program but request the Lahontan Regional Water Quality Control Board to review the use of a voluntary program in lieu of a regulatory program. Staff review of projects would be the same as in alternative 1.
OUTLINE OF LAHONTAN PROGRAM REQUIRING PAVING OF UNPAVED PARKING LOTS AND DRIVEWAYS AND REVEGETATION OF EXISTING ERODING AREAS

Many commercial developments, utilities, and government agencies have unpaved areas which are open to traffic and, as a result, are subject to considerable erosion. Analyses of runoff collected from unpaved driveways and parking areas show these areas to be some of the worst sources of suspended sediments and nutrients in the Lake Tahoe basin. The California Regional Water Quality Control Board, Lahontan Region is implementing a program requiring the owners of these areas to either pave, or abandon and revegetate these areas. Owners of single family dwellings will not be affected by this program.

Regional Board staff will identify those government, utility, and commercial parcels which have unpaved areas and determine the priority for adoption of requirements specifying correction of these problems. The property owners will be contacted and informed of the requirements. Compliance will usually be required within two building seasons of adoption of waste discharge requirements for any given property. The requirements will call for paving of those existing unpaved parking areas and driveways which the owner proposes to continue using, blocking from access and revegetating those which he does not propose to use, and stabilizing other eroding areas and drainageways, as necessary. In many cases, the owner will be required to infiltrate the 20-year one-hour storm runoff from all impervious surfaces on his property. Each property owner will submit to the Regional Board plans of the improvements to be made. Regional Board staff will review the plans for adequacy. Tahoe Regional Planning Agency (TRPA) staff will review the plans for acceptability with TRPA ordinances. Regional Board staff will notify the property owner of acceptability or needed changes.

Since this program will result in projects which are normally reviewed by the Tahoe Regional Planning Agency, as well as by various city, county, and state agencies, it is necessary that the requirements of this program are acceptable to those agencies. The information which follows outlines the proposed program.

In the following, impervious coverage is defined as the area covered by paving and buildings, including decks, porches, etcetera. Compacted coverage is defined as the area which is or has been open to vehicle traffic and has been disturbed or compacted by such traffic, e.g. gravel or dirt parking lots and driveways.

1. Impervious coverage will be allowed up to what was and has been in existence since April 11, 1972, the effective date of the Tahoe Regional Planning Agency (TRPA) Land Use Ordinance. City and county records will be used to identify coverage or development which existed on that date. If the discharger does not agree with the determination of 1972 coverage made from these records, it will be the responsibility of the discharger to supply evidence supporting his claim for coverage in excess of what would otherwise be allowed. If the discharger and the staff cannot agree on allowed coverage after presentation of discharger's supporting evidence, the discharger may present his case to the governing board of the agency involved for final determination of allowed coverage.
2. Generally, when impervious coverage is increased by 1000 square feet or more, the discharger will be required to infiltrate the 20-year one-hour storm runoff from all impervious surfaces. When impervious coverage is increased by less than 1000 square feet, no new infiltration will be required at this time.

3. Bare areas which are subject to traffic must be blocked off and revegetated. Devices which are proposed for use in blocking off such areas must be approved during the plan review process. In any case, the devices would have to be adequately anchored to prevent dislocation by vandals, snow removal equipment, or those wishing to park in or drive through the open area.

4. Each property owner will be responsible for his property and any portion of right of ways which he wishes to use as a driveway, parking area, or for landscaping. If adjacent property owners wish to make arrangements such that one may use property of the other for parking, etcetera, agreements for payment, duration and extent of use must be worked out between the owners - we will not get involved.

5. Some of the commercial properties have dirt driveways and parking areas which have been in use since 1972 but which are not really needed. The owners may not wish to pave these surplus areas but may feel the need to do so in order to retain maximum coverage which could be removed as a trade-off should they desire to expand in the future. Unintentionally forcing owners to pave everything they can now as "coverage in the bank" is not in the interest of water quality. We feel that the owner should be given credit for any area which he could pave but chooses not to. The amount of existing unpaved coverage which the owner vegetates would be recorded and a letter would be sent to the owner stating that this square footage is retained by the owner as "nonconforming coverage" even though it has been revegetated. If the owner were to propose alterations or additions to his property in the future, this revegetated area could be applied towards any reduction of impervious coverage which would be required by TRPA or CTRPA ordinances.

We may wish to limit the amount of presently unpaved but compacted surface which could be paved to that area needed for the specific development in question. We would require that any additional unpaved area be revegetated and the property owner would receive credit for this area. Lahontan has no standards of required paved area per specific business unit (motel room, restaurant seating, etc.) so standards of other agencies would have to be adapted to this program.
6. Numerous properties abut California Department of Transportation (Caltrans) right of ways. Some of the properties within the Caltrans right of ways are used by the commercial property owner for access only, some are used for parking area for adjacent commercial property, and some are frontage to vacant, but bare and eroding property. Commercial property owners who use and wish to continue using Caltrans right of way will be required to assume the cost of necessary improvements. Caltrans will be responsible for making necessary improvements on those portions of the right of ways which are not used by frontage property owners for access, parking, or landscaping. This includes blocking vehicle access to and revegetating those portions of the right of way which will not be used by the property owner.

Caltrans paving and grading specifications will be applied when owners of frontage property wish to make improvements within the Caltrans right of way. City or county specifications, as applicable, will be applied to those portions of projects which are not on Caltrans right of ways.

7. Many drainage ways through developed or bare areas are merely channels which have developed through erosion of the underlying soil. Owners (including government agencies such as Caltrans) of property which contains such a drainageway will be required to stabilize it with rock rip-rap, paving, or perforated culverts of appropriate size. The intent of this requirement is to prevent further erosion while still allowing as much infiltration of stormwater runoff as possible.

8. Any eroding areas on the property must be stabilized and/or revegetated. Such areas will generally be eroding cut slopes, fill slopes, bare areas, and previously landscaped areas which were not maintained or upon which the applied control measures were not adequately effective.

9. If a vacant parcel has historically (since 1972) been used as a driveway or parking area for adjacent development, it can be paved and such use can continue, provided that the user owns or holds a long-term lease on the property. If, however, a vacant parcel has been subject to uncontrolled traffic or parking, the owner must block it from further access and revegetate it.
Mr. Gordon W. Barrett
Senior Planner
Tahoe Regional Planning Agency
P. O. Box 8896
South Lake Tahoe, California 95731

Re: Repairs to Boathouses and Other Superstructures

Dear Gabby:

You have requested an opinion concerning the extent to which a boathouse or other superstructure may be repaired pursuant to the TRPA Shorezone Ordinance, Ordinance No. 76-3, as amended. A review of Section 17.00 ("nonconforming structures") and related provisions appears to indicate repairs to boathouses and other superstructures are to be strictly limited.

Section 17.30 provides that nonconforming "superstructures", which includes boathouses, on piers located within the nearshore or foreshore "shall be removed or made conforming on or before December 31, 1999". Section 17.40 declares, moreover, that "[w]ithin the time specified by this ordinance, a nonconforming structure shall either be repaired to conform with the provisions of this ordinance or removed by the owner at his expense . . . ."

Section 17.30, alone, and when read in conjunction with 17.40, indicates that nonconforming superstructures are not to have perpetual existence. To the contrary, they are to be removed or made conforming, through repair, within a limited period of time. To be contrasted are the provisions in Section 17.10(2), relating to height and width of piers, permitting replacement of nonconforming piers, presumably through repairs, if the piers are removed, damaged or destroyed in an amount equal to 50% or less of the replacement cost thereof.

The foregoing provisions, permitting limited perpetuation of nonconforming height and width aspects of piers, but extending no similar treatment to nonconforming superstructures, appear to intend that repairs of a nature otherwise perpetuating nonconforming superstructures, such as structural repairs, not be permitted. We feel that conclusion evident not only from the provisions of Section 17.00, above, but Section 16.40,
August 31, 1982
Mr. Gordon W. Barrett
Page 2-

requiring that repairs to existing structures "be performed in substantial compliance with the provisions of this ordinance".

Accordingly, it is our opinion that a nonconforming superstructure may not be repaired through structural alterations or improvements in a manner otherwise perpetuating its nonconforming existence. Repairs not perpetuating such existence, however, such as repairs of a minor, nonstructural nature, would not violate the prohibition.

While the foregoing represents our best legal judgment as to the meaning and effect of the pertinent provisions of the Shorezone Ordinance, we acknowledge the lack of a totally explicit basis for our opinion. As a result, we recommend any substantial dispute concerning the foregoing interpretation be resolved through a clarifying amendment to the ordinance.

Sincerely yours,

SHAW, HEATON, DOESCHER & OWEN, LTD.

By
Gary A. Owen

GAO:am

AGENDA ITEM XIII D. 2.
MEMORANDUM

October 13, 1982

To: The TRPA Governing Board

From: The Staff

Subject: List of Projects Approved at Staff Level

Attached is a list of projects approved at a staff level since ordinance amendments became effective to permit such approvals. Notice of these approvals was provided to all affected property owners and posting of the determinations and appeal procedures were followed in all cases. All approvals were granted with necessary findings and conditions.

Attachment

jf
10/13/82

Agenda Item XIII D. 3.
Zuhair Hirmez, Backshore Dwelling, Lot 13, Lighthouse Shores, City of South Lake Tahoe, El Dorado County APN 22-431-13, TRPA File #82265

Juanita Ordaz, Backshore Dwelling, Lots 53 and 54 Beach Drive, City of South Lake Tahoe, El Dorado County APN 22-381-18 and -19, TRPA File #82263

Gary Brand, Backshore Dwelling, Lot 7, Lighthouse Shores, City of South Lake Tahoe, El Dorado County APN 22-431-07, TRPA File #82282

Land Capability Challenges

Dennis Ricci, Placer County, APN 89-303-06
Charles Rausch, Placer County, APN 89-333-04
Richard Kahn, Placer County, APN 89-352-11
Robert Karlsrud, El Dorado County, APN 34-462-16 & 17
C. Ernie Orr, El Dorado County, APN 34-342-02
Charles Schreiber, El Dorado County, APN 81-101-02
Chris Strohm, El Dorado County, APN 25-612-02
Norman Johnson, Placer County, APN 93-242-08
Leif Johansen, Placer County, APN 92-234-16
Saul Aarons, Placer County, APN 89-352-10
Jose Calascigetta, Placer County, APN 89-352-07
Joe Tarantino, City of South Lake Tahoe, APN 27-364-17
John Kibler, El Dorado County, APN 33-552-16
Herbert T. Yamaguchi, El Dorado County, APN 33-351-12
Vivian Ellis, El Dorado County, APN 34-152-18
Stanley Stager, El Dorado County, APN 81-101-06
John Miller, El Dorado County, APN 16-372-03
Louis Lee, El Dorado County, APN 25-812-23
W. M. Edwards, Placer County, APN 83-244-08
Thomas Volkmann, Placer County, APN 89-092-01
William Fanning, El Dorado County, APN 33-351-07
Land Capability Challenges (continued)

John Macklin, El Dorado County, APN 33-352-02
Donald Pitt, El Dorado County, APN 33-471-03
Joseph Neri, El Dorado County, APN 33-472-04
Angelo Lombardi, El Dorado County, APN 33-472-07
Karl Ezik, Placer County, APN 89-363-04
R. O. Worth, El Dorado County, APN 34-242-05
CONFIDENTIAL COMMUNICATION FROM ATTY. TO CLIENT

LAW OFFICES
SHAW, HEATON, DOESCHER & OWEN, LTD.
304 SOUTH MINNESOTA STREET
P. O. BOX 605
CARSON CITY, NEVADA 89702
October 26, 1982

Members of the Governing Body
Tahoe Regional Planning Agency
P. O. Box 8896
South Lake Tahoe, California 95731

Re: Interpretation of Section 9.13 of Nevada-Side Land Use Ordinance

Dear Members of the Governing Body:

Request for Opinion

At the September, 1982 meeting of the Governing Body of the Tahoe Regional Planning Agency ("TRPA"), counsel was requested to prepare a legal opinion concerning Section 9.13 of the Nevada-Side Land Use Ordinance, TRPA Ordinance No. 4, as amended.

Question Presented

Does the term "parcel" in Section 9.13 include an area of land owned within a residential subdivision recorded more than five (5) years prior to February 10, 1972, for which subdivision there has been no construction of roads, sewers or other substantial facilities or the posting of performance bonds assuring such construction, thus entitling the owner thereof to construct one single-family house thereon in accordance with otherwise applicable ordinances?

Opinion

It is the opinion of this office that "parcel" as used in Section 9.13 includes such areas of land, subject to the limitations set forth below.

Pertinent Ordinance Provisions

Section 9.13 of the Land Use Ordinance provides:

"One (1) single-family house may be constructed on any existing legal lot or parcel of record..."
as of February 10, 1972 that is located in any district except Tourist Commercial or General Commercial, provided, however, that this section shall not apply to lots in residential sub-divisions where the final map of such subdivision was approved and filed for record more than five (5) years prior to February 10, 1972 and there has been no construction of roads, sewers, or other substantial facilities serving the subdivision, or the posting of performance bonds assuring such construction, prior to February 10, 1972.”

Section 3.00 of the ordinance defines "lot" as follows:

"An area of land occupied or to be occupied by a building or other structure, or to be used in connection with an activity, that is shown as a separately bounded area in a recorded subdivision plat or deed."

Section 3.00 defines "parcel" as:

"An area of contiguous land owned by a person."

Discussion

While your present counsel was not involved in preparation of the Nevada-Side Land Use Ordinance during 1971 and 1972, we have become intimately acquainted with the provisions of the ordinance and the purposes underlying adoption thereof. One of those purposes, with which we have become especially acquainted in our capacity as defense counsel in numerous "inverse condemnation" actions, is the preservation of a residual "reasonable use" for real property within the Lake Tahoe Region. Section 9.13 of the Land Use Ordinance, permitting one (1) single-family house upon existing legal lots or parcels of record, was the principal means of assuring that reasonable use. As you may recall, Richard M. Heikka, TRPA Executive Officer at the time of preparation and adoption of the Land Use Ordinance and thereafter, concurs in this observation.

Turning to the wording of Section 9.13, it appears designed to forbid build-out of what are commonly referred to as "paper sub-divisions". It effects that prohibition, however, by reference to "lots" in a subdivision whose final map was recorded more than five (5) years prior to February 10, 1972, there having been no
October 26, 1982
Members of the Governing Body
Page -3-

construction of substantial facilities serving the subdivision or posting of performance bonds therefor. While prohibiting build-out upon such "lots", the section expressly permits a single-family house on any "existing legal lot or parcel of record as of February 10, 1972" located in certain districts. Accordingly, while build-out of certain "lots" is prohibited, construction of a single-family house on a "parcel" is allowed. Moreover, the "paper-subdivision" lot reference is an exception to the generally permitted construction of a single-family house. Were that exception to extend to a "parcel", the ordinance would have said so.

A review of the definitions of "lot" and "parcel" is also helpful. While the definition of "lot" (Land Use Ordinance, Section 3.00, above) refers to an area of land "shown as a separately bounded area in a recorded subdivision plat or deed", "parcel" is defined as "an area of contiguous land owned by a person". Thus, while a "lot" must contain boundary lines, a "parcel" need only be an area of contiguous ownership, there being no reference to delineation of boundaries. The unique definition of "parcel", especially within the context of Section 9.13 and the purpose of permitting residual reasonable use, appears to permit reference to "ownership areas" for purposes of construction of a single-family house.

One might question whether permitting construction of a single-family house on a "parcel" located within a "paper subdivision" would subvert the prohibition of build-out upon "lots" located therein. In adopting Section 9.13, however, the TRPA Governing Body likely was of the impression that lots within "paper subdivisions" tended to be owned in groups, as opposed to each lot being owned by a distinct individual. That is not always the case, however, and in certain instances the "ownership area" or "parcel" will coincide with the "lot".

As the provisions of Section 9.13 indicate, there are restrictions upon its application. First, a parcel must have been legally created and of record, such as through recordation of a deed or parcel map, as of February 10, 1972. Moreover, division or conveyance of a portion of a parcel lawfully of record as of February 10, 1972 defeats the ability to construct a single-family house pursuant to Section 9.13. Finally, the ability to construct such a house is not unqualified; owners of qualified lots or parcels must comply with currently applicable ordinances and regulations, such as Ordinance No. 81-5.
October 26, 1982
Members of the Governing Body
Page -4-

This opinion is limited to the unique provisions of Section 9.13 and particularly its application to areas of ownership within "paper subdivisions". Perhaps unlike the subjects of other recent legal opinions we have prepared, we must recognize that this question is especially difficult and Section 9.13 somewhat ambiguous. Nevertheless, we feel the following factors, discussed in detail above, persuasive: (1) the purpose of the ordinance, as substantiated by Mr. Heikka, as permitting a residual "reasonable use"; (2) the extremely unique definition of "parcel", contrasted to the customary definition of "lot"; (3) the wording of Section 9.13, expressly distinguishing "lots" and "parcels"; and (4) the potential lack of residual "reasonable use" were areas of ownership within a "paper subdivision" denied the single-family residential use referred to in Section 9.13.

Confidentiality

While the general subject of this memorandum likely will be discussed at the October meeting of the TRPA Governing Body, such discussion shall not render this memorandum other than a confidential communication from attorney to client within the attorney-client privilege. We ask such privilege be preserved with respect to this memorandum, therefore, and further ask that you strictly observe this request of confidentiality, refraining from duplication of this memorandum or discussion of the contents hereof. Our request is especially pertinent to the defense of "inverse condemnation" litigation and the bearing thereon of the purposes of the TRPA Land Use Ordinance.

Respectfully submitted,

SHAW, HEATON, DOESCHER & OWEN, LTD.

By

Gary A. Owen

cc: Philip A. Overeynder, Ex. Dir.
Members of the Governing Body  
Tahoe Regional Planning Agency  
Post Office Box 8896  
South Lake Tahoe, California  95731

Re: Ordinance Permitting Condominium Conversions

Dear Members of the Governing Body:

Please find enclosed a draft of an ordinance permitting conversions to condominiums of structures nonconforming as to density or land coverage, or both. Conversion is proposed to apply only to structures lawfully in existence on the respective dates of adoption of the TRPA and CTRPA Land Use Ordinances. The enclosure amends both of those ordinances as they apply to the respective state portions of the Tahoe Region, and is proposed for first reading at the October Governing Body meeting.

As you may recall, the enclosed ordinance was requested to reconcile differences or conflicts in application of the TRPA and CTRPA ordinances as they affect condominium conversions of nonconforming structures. While the bulk of the enclosure was discussed with you at the September Governing Body meeting, the portions of the draft relating to water quality improvements and public access to Lake Tahoe are relatively recent proposals by CTRPA staff and counsel. I commend them to your discretion.

Sincerely yours,

SHAW, HEATON, DOESCHER & OWEN, LTD.

By [Signature]

Gary A. Owen

GAO:am
cc: Greg George (w/encls.)
    Craig Thompson, Esq. (w/encls.)
    Dennis Winslow (w/encls.)

LAW OFFICES
SHAW, HEATON, DOESCHER & OWEN, LTD.
304 SOUTH MINNESOTA STREET
P. O. BOX 605
CARSON CITY, NEVADA 89702

October 22, 1982

RECEIVED
BY [Signature]
OCT 25 1982
TAHOE REGIONAL PLANNING AGENCY
TAHOE REGIONAL PLANNING AGENCY

ORDINANCE NO. 82-

AN ORDINANCE RELATING TO CONDOMINIUM CONVERSIONS OF CERTAIN STRUCTURES NONCONFORMING AS TO DENSITY OR LAND COVERAGE, OR BOTH; AMENDING CALIFORNIA AND NEVADA-SIDE LAND-USE ORDINANCES TO PERMIT SUCH CONVERSIONS UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

The Governing Body of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00 Findings.

1.10 It is necessary and desirable to amend Ordinance No. 4 of the Tahoe Regional Planning Agency, as amended, as it applies to the portion of the Lake Tahoe Region located within the State of Nevada, and Ordinance No. 1 of the California Tahoe Regional Planning Agency, as amended, as it applies to the portion of the Lake Tahoe Region located within the State of California pursuant to Article V(e) of the Tahoe Regional Planning Compact, as amended, to permit under certain circumstances the conversion to condominium ownership of certain structures nonconforming as to density or land coverage, or both.

1.20 As required by law, the Governing Body of the Tahoe Regional Planning Agency, prior to the adoption of this ordinance, conducted a duly noticed public hearing, at which hearing all persons desiring to present oral testimony or documentary evidence were permitted to do so.

1.30 This ordinance is necessary and desirable to promote, and is reasonably related to, the public health, safety and general welfare of the Lake Tahoe Region, complies in all respects, procedural and substantive, with the Tahoe Regional Planning Compact, and the regional plan, ordinances, rules, regulations and policies of the Tahoe Regional Planning Agency, and is necessary to effectuate and implement the same.

1.40 By virtue of the nature and purpose of the provisions of this ordinance, this ordinance will not have a significant effect on the environment of the Tahoe Region and is thus exempt from the requirement of preparation of an environmental impact statement pursuant to Article VII of the Tahoe Regional Planning Compact, as amended.
Section 2.00 Amendment of Ordinance No. 4 of Tahoe Regional Planning Agency Permitting Condominium Conversions.

Section 9.00 of Ordinance No. 4 of the Tahoe Regional Planning Compact, as amended, as it applies to the portion of the Lake Tahoe Region located within the State of Nevada, is hereby amended by adding new subsection 9.40 thereto to read as follows:

9.40 Condominium Conversions

Notwithstanding the provisions of Section 9.30 and other provisions of Agency ordinances requiring compliance with density and land coverage requirements, the Agency may approve a permit for the conversion to a condominium form of ownership of a structure lawfully in existence on February 10, 1972 in accordance with the provisions of this section.

9.41 Compliance with Use Regulations

An application for a condominium conversion pursuant to this section may be for residential or commercial purposes, provided the use resulting from the conversion is consistent with the types of uses permitted in the land-use district within which the structure is located. While applicable density requirements need not be met, the extent of nonconformity therewith may be considered by the Agency in acting upon an application pursuant to this section.

9.42 Reduction of Nonconforming Land Coverage

The application shall comply with otherwise applicable requirements for replacement of nonconforming land coverage. Even though an application pursuant to this section proposes no replacement of or addition to nonconforming land coverage, the Agency, to the extent reasonably feasible, shall require a reduction of nonconforming land coverage on the site occupied by the structure.

9.43 Landscaping and Drainage Improvements

In acting upon an application pursuant to this section, the Agency shall require installation of landscaping, drainage or other appropriate improvements upon the site occupied by the structure, necessary to cause such site to comply with applicable water quality plans and ordinances of the Agency.
9.44 Parking

There shall be adequate parking for the use resulting from the conversion. Adequacy of parking shall depend upon the intensity of such resulting use and a comparison of same to the parking regulations of the county or city in which the project is located, which regulations shall serve as guidelines, only, for this purpose.

9.45 Access to Lake Tahoe

In acting upon an application pursuant to this section, which involves a site abutting or adjacent to Lake Tahoe, the Agency may require dedication and improvement of public access to Lake Tahoe. Where such access is not reasonably feasible, the Agency may require provision or improvement of off-site public access.

9.46 Reconstruction Limitations

(1) Application of Limitations

In the event of damage to or destruction of all or any portion of a structure, the conversion of which to condominium ownership is pursuant to a permit issued by the Agency under this section, reconstruction of such structure shall comply with all Agency ordinances and regulations governing the reconstruction of a nonconforming structure or a structure devoted to a nonconforming use. Any replacement-cost limitation prescribed by such ordinances and regulations shall be computed by reference to the replacement cost of all structures on the project site, rather than exclusively to the structure damaged or destroyed.

(2) Disclosure

In conducting negotiations, formal or informal, for the purchase, sale, lease or transfer of a condominium unit within a structure converted to condominium ownership pursuant to this section, the applicant for such conversion, and such applicant's successor(s) in interest, shall expressly disclose to all other persons involved in such negotiations the existence and terms of any and all Agency regulations of, or restrictions or limitations upon, reconstruction of the structure containing such unit. Such applicant shall also record in the office of the county recorder in which the project is situated, a notice, approved by Agency counsel, setting forth the matters otherwise required to be disclosed pursuant to this subsection, which notice shall be recorded together with the documents effectuating the conversion pursuant to this section.
9.47 Findings

An application for a permit pursuant to this section shall not be approved unless it is found by the Agency that the conversion will not result in any increase in development potential, in present or potential land coverage or density, will not cause a detrimental effect upon the availability of transient dwelling units or units available for purposes of low-cost employee housing in the general area of the project, and will not have an adverse impact upon the health, safety, general welfare or environment of the Region.

9.48 Compliance with Other Ordinances and Regulations

An application for a permit pursuant to this section shall not be approved unless it complies in all respects with otherwise applicable plans, ordinances and regulations of the Agency.

Section 3.00 Amendment of Ordinance No. 1 of California Tahoe Regional Planning Agency Permitting Condominium Conversions.

Chapter 4 of Ordinance No. 1 of the California Tahoe Regional Planning Agency, as amended, as it applies to the portion of the Lake Tahoe Region located within the State of California pursuant to Article V(e) of the Tahoe Regional Compact, as amended, is hereby amended by adding new Section 4.24 thereto to read as follows:

4.24 Condominium Conversions

Notwithstanding the provisions of Section 4.21 and other provisions of Agency ordinances requiring compliance with density and land coverage requirements, the Agency may approve a permit for the conversion to a condominium form of ownership of a structure lawfully in existence on September 19, 1975 in accordance with the provisions of this section.

(a) Compliance with Use Regulations

An application for a condominium conversion pursuant to this section may be for residential or commercial purposes, provided the use resulting from the conversion is consistent with the types of uses permitted in the land-use district within which the structure is located. While applicable density requirements need not be met, the extent of nonconformity therewith may be considered by the Agency in acting upon an application pursuant to this section.

-4-
(b) Reduction of Nonconforming Land Coverage

The application shall comply with otherwise applicable requirements for replacement of nonconforming land coverage. Even though an application pursuant to this section proposes no replacement of or addition to nonconforming land coverage, the Agency, to the extent reasonably feasible, shall require a reduction of nonconforming land coverage on the site occupied by the structure.

(c) Landscaping and Drainage Improvements

In acting upon an application pursuant to this section, the Agency shall require installation of landscaping, drainage or other appropriate improvements upon the site occupied by the structure, necessary to cause such site to comply with applicable water quality plans and ordinances of the Agency.

(d) Parking

There shall be adequate parking for the use resulting from the conversion. Adequacy of parking shall depend upon the intensity of such resulting use and a comparison of same to the parking regulations of the county or city in which the project is located, which regulations shall serve as guidelines, only, for this purpose.

(e) Access to Lake Tahoe

In acting upon an application pursuant to this section, which involves a site abutting or adjacent to Lake Tahoe, the Agency may require dedication and improvement of public access to Lake Tahoe. Where such access is not reasonably feasible, the Agency may require provision or improvement of off-site public access.

(f) Reconstruction Limitations

(1) Application of Limitations

In the event of damage to or destruction of all or any portion of a structure, the conversion of which to condominium ownership is pursuant to a permit issued by the Agency under this section, reconstruction of such structure shall comply with all Agency ordinances and regulations governing the reconstruction of a nonconforming structure or a structure devoted to a nonconforming use. Any replacement-cost limitation prescribed by such ordinances and regulations shall be computed by
reference to the replacement cost of all structures on the project site, rather than exclusively to the structure damaged or destroyed.

(2) Disclosure

In conducting negotiations, formal or informal, for the purchase, sale, lease or transfer of a condominium unit within a structure converted to condominium ownership pursuant to this section, the applicant for such conversion, and such applicant's successor(s) in interest, shall expressly disclose to all other persons involved in such negotiations the existence and terms of any and all Agency regulations of, or restrictions or limitations upon, reconstruction of the structure containing such unit. Such applicant shall also record in the office of the county recorder in which the project is situated, a notice, approved by Agency counsel, setting forth the matters otherwise required to be disclosed pursuant to this subsection, which notice shall be recorded together with the documents effectuating the conversion pursuant to this section.

(g) Findings

An application for a permit pursuant to this section shall not be approved unless it is found by the Agency that the conversion will not result in any increase in development potential, in present or potential land coverage or density, will not cause a detrimental effect upon the availability of transient dwelling units or units available for purposes of low-cost employee housing in the general area of the project, and will not have an adverse impact upon the health, safety, general welfare or environment of the Region.

(h) Compliance with Other Ordinances and Regulations

An application for a permit pursuant to this section shall not be approved unless it complies in all respects with otherwise applicable plans, ordinances and regulations of the Agency.

Section 4.00 Interpretation and Severability.

The provisions of this ordinance shall be liberally construed to effect their purposes. If any section, clause, provision or portion of this ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. For this purpose, the provisions of this ordinance are hereby declared severable.
Section 5.00 Effective Date.

This ordinance shall be effective sixty (60) days after the date of its adoption.

FIRST READING:

SECOND READING:

PASSED AND ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held ________________, 1982, by the following vote:

Ayes:

Nayes:

Abstentions:

Absent:

Chairman